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HUMANISM AND TYRANNY

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Humanism and Tyranny

Studies in the Italian Trecento

BY

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IN HARVARD UNIVERSITY
(*EMERITUS*)

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PREFACE

THE present volume owes its origin to a long-cherished desire on my part to make a nearer acquaintance with the personality and the work of Coluccio Salutati. The most accomplished scholar of his day, holding for a full generation the most important administrative office in the Commonwealth of Florence, his name has become almost forgotten outside the narrow circle of students of Italian life in the early Renaissance period. The appearance of the final volume of his letters in the masterly edition of the late Francesco Novati in 1911 called renewed attention to his significance in the literary and political movements of the *Trecento*. His treatise on "The Tyrant," edited for the first time in 1913, revealed him in a new light as a political theorist of no mean capacity. In presenting this treatise to English readers, I have hoped to do a modest service to students of this increasingly attractive branch of political science.

Inquiry into the sources of Salutati's interest in his theme showed at once his indebtedness to the great jurist, Bartolus of Sassoferrato, and led me to attempt a translation of that Master's essay upon the same subject. Frequent reference in both treatises, in fact in all Italian literature of the time, to the baleful influence of party spirit in Italian politics, pointed to the exposition of the great national party organizations by Bartolus in his

essay—or, perhaps, academic lecture—on "Guelphs and Ghibellines," with its very striking analogies to our own system of government by parties. As a relief from these sternly juristic discussions, I thought it worth while to reproduce the contemporary portrait of one of the most typical "tyrants" and party leaders, the picturesque and untamable champion of Ghibellinism, Francesco Ordelaffi of Forlì.

And then, over against this reckless *Haudegen* stands, quite naturally, the commanding figure of the man who drove him from his place, the famous Cardinal-Legate Egidio Albornoz. The monumental work of Albornoz was the code of laws for the government of the papal state immortalized under the title: *Constitutiones Egidianae*. From these ordinances, which remained the basis of civil administration in the lands of the *Chiesa* down to the time of Napoleon, I have selected such as seemed best to illustrate the peculiar dual lordship they were designed to maintain.

Finally, for typical illustrations of that vast transformation of intellectual attitude which forms the background of all these political and legal phenomena, I turned again to Salutati. A group of his letters, or rather essays, in which he develops with convincing force the educational doctrine of the early Renaissance,—the right and the duty of the Christian scholar to busy himself with the classic literatures of Greece and Rome,—were selected for translation and brief comment.

All the translations given here have been made, so far as I know, for the first time. They are based upon printed editions made from more or less corrupted texts

and offering peculiar difficulties to the modern scholar. For help and encouragement in this often puzzling work I am deeply indebted to many friends and colleagues, but especially to Professor R. K. Hack, now of the University of Cincinnati, to Professor George LaPiana of the Theological School, and Professor Charles H. McIlwain of the Departments of History and Government in Harvard University, who has had the great kindness to read the proofs of the whole volume.

To the officials of the Libraries of Harvard College and the Harvard Law School I am under the kind of obligation which no words can express.

E. E.

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HUMANISM AND TYRANNY

I

GENERAL INTRODUCTION

I

GENERAL INTRODUCTION

The Fourteenth Century

IN accordance with a principle of historical writing which I have tried elsewhere to describe, and which I believe to be sound,[1] I am assuming here the century as a unit of the human story, not forgetting, of course, that this is an arbitrary procedure, and allowing for the overlapping which any chronological division of history must necessarily involve. It so happens — if there is any happening in history — that the turn from the thirteenth to the fourteenth century is in fact rather sharply indicated. The thirteenth century has acquired a certain fame from the phrase invented by one of its admirers — "Greatest of Christian Centuries"; and indeed, if we can place ourselves in the attitude of mind which this phrase reflects, we can appreciate the large measure of truth it is meant to express. It is true that the thirteenth century presents one of the most imposing of human pageants. It shows us the completed structure of a social order splendid in its conception, built up by a conscious evolutionary process, appealing to a profound moral and religious instinct, and rooted in what seemed to be the permanent loyalties of a new, vigorous, and expanding population.

It expresses the triumph of the idea of unity over the facts of diversity in that perpetual conflict which forms the undercurrent of all associated human life. As set

1. "The Periodization of History," *Massachusetts Historical Society Proceedings*, lii, 55.

forth in countless declarations and in endless detail, the mediæval theory of social order was this: that, as there is one God in heaven, the supreme ruler of the created universe, so there must be one divine rule over God's people on earth. But, since man is a dual being, physical and spiritual, God has entrusted this rule to a dual administration. The things of this world (*temporalia*) are in the hands of the Empire; the things of the spirit (*spiritualia*) are the domain of the Church. These two jurisdictions are separate, but they are not antagonistic. They are but two functions in the one divine system of government. Each is essential to the complete working of the other. It is the duty of the Empire to support the divinely constituted order of the Church. It is the pleasure of the Church to maintain the theory of imperial sovereignty as its twin agent in carrying out the will of God among men.

Both of these universal institutions traced their origin from Rome — not the Rome of the Republic, but the Rome of the Empire. Each pointed to an unbroken line of tradition confirming its claim alike to the allegiance of its subjects and to the support of its sovereign colleague. Of course, since this divine order was in the hands of fallible men, it was inevitable that it should suffer from all the forms of strain to which humanity is liable. In theory, a conflict between the two jurisdictions was unthinkable. In practice, there was never a time when the two were not engaged in a wrestle for supremacy. At critical points this struggle became acute, and we have the episodes of Charlemagne and Otto the Great, of Hildebrand and Barbarossa, to throw out into sharper relief the realities of the mediæval problem.

The thirteenth century shows the apparent triumph of the Church; or rather, to put it more accurately, this is

the period when the Church had taught the Empire its place in the scheme of things. The outcome of the century was that the Empire had learned its limitations. The Hohenstaufen policy of political control over Italy gave way to the Hapsburg policy of abstention from direct interference in Italy, in return for a papal guaranty of non-intervention in the affairs of Germany. That is the great outstanding political fact. The dual nature of world-sovereignty was thus obscured by the predominance of one element over the other. The theory remained, but from 1250 on it seems more and more apparent that the Church, freed from the constant dread of imperial aggression, was to be the real unifying influence among the Christian peoples of the West.

Still more clearly was this seen to be the case in the things of the spirit. The beginning of the thirteenth century is marked by that extraordinary phenomenon, the rise of the two great Mendicant Orders, the Franciscans and the Dominicans. Both branches of the militant Church, the secular and the regular, had been going through one of those periods of depression to which spiritual institutions are always liable. The monastic clergy, separated from "the world" by the rule of inclusion, had suffered from the evils inevitable in the secluded life. The secular priests, high and low, had become so completely involved in the social and economic concerns of the people about them that their moral influence had been greatly reduced. Monk and priest alike were the objects of universal criticism and of widespread hostility or contempt. To use the figure of contemporary judgment, the Church was toppling to a fall, when, from two widely separated quarters, came the promise of rescue. The work neglected by the proper laborers was taken up by new and hitherto untried agencies. Not from above

downward, but from below upward, were these regenerative activities set in motion. Starting from an individual impulse, each of the founders gathered to himself a following of like-minded individuals, and only after experiment and hesitation procured the reluctant consent of the supreme authority.

The triumph in both cases was secured by the abandonment of two principles which had been supposed to be essential to all effective church life. One of these was the theory of monasticism as primarily for the benefit of the monk; the other was the limitation of preaching to the regularly ordained parish ministry. The new orders were a protest against both these restrictions. Their recruits were no longer separated persons, but "brethren," *fratres*, friars. Instead of being forbidden to wander, they were wanderers by profession. The Franciscan was to go out among the sufferers of this world and carry to them that charity which was the most distinctive mark of the religion of Christ. The Dominican was to go out and deliver once again the message of the faith to souls in danger from indifference or from the subtle assaults of heresy or infidelity. Together they formed an army singularly well adapted to this new crusade. Its companies penetrated to the remotest corners. It made use of every weapon to accomplish its purpose. Primarily inspirational in its motive and its methods, it soon learned all that there was to learn of organization and discipline. Not at all intellectual in its origin, it eventually absorbed into its ranks the best learning of the day. Adopted and utilized by the governing powers of the Church, the Orders at their best were always essentially hostile to rigidity or to autocratic control. Out of them were destined to come many of the leaders in the continuous protest against papal assumption and aggression.

Within the limits of the thirteenth century, however, this kind of protest was not of great importance. The Mendicant Orders of the first two generations were, as they have often been described, a papal militia, swiftly mobilized, flexible in movement, unquestioning in obedience. Their learning, freed from the worst extremes of mediæval scholastic subtlety, was applied to the complete, systematic harmonizing of the Christian tradition with the slowly developing enfranchisement of the human spirit. In this harmonizing process was included also the institutional life of the Church; so that in that vast monumental survey of mediæval culture, the "Summa" of Thomas Aquinas, we have the very embodiment, the completed picture of this "greatest of Christian centuries." Thomas was a Dominican friar, an intellect of real, permanent, one is almost tempted to say of independent, quality, if only there had been such a thing as independence in that world of authority. His work provided a standard by which Roman Catholic orthodoxy has been measured to this day. Yet it cannot be forgotten that, like other standards of orthodoxy, it afforded also a measure for persecution. It is not an accident that the most efficient agents in the cruel repression of all unorthodox thinking in this model century were these same Dominicans, out of whose fellowship had been developed such powerful forces of purification and regeneration.

The same impression of unified and concentrated power is conveyed by the story of contemporary European politics. In speaking of the triumph of the Papacy over the Empire we followed the traditional terminology. We spoke of the Empire as if it were what it pretended to be — a universal power carrying on a divinely ordained tradition of sovereignty. In fact, this was never anything but a shallow pretence, as empty as the im-

pudent assumptions of the Germany of 1914. What was called the Empire was really a national kingdom, the kingdom of the Germans. Its heroic period presents the story of a new, vigorous fighting race emerging from its forests and its swamps, accepting a foreign culture and an alien religion, imposing itself upon less forceful peoples to the east and south, and then decorating itself with the borrowed symbols of a sham imperialism. What the so-called "emperors" accomplished was invariably based upon such support as they could command from the German people. When this failed them, they were powerless. To undermine this support was always the policy of their most dangerous rivals, the aggressive occupants of the chair of Peter. In spite, therefore, of its sounding titles and its universal claims, the Empire was only one in the group of national states which in the thirteenth century were rising out of the welter of unrestrained feudalism, were forming so many new centres of political activity, and were bidding for the loyalty of all the elements of their several populations.

In these rising national monarchies the papal system perceived from the outset its most threatening competitors. It was inevitable that monarchical ambition should reach out after the control of the vast clerical interests now firmly established in every country, and against this special ambition the papal administration was prepared to employ every weapon in its amazingly well-furnished armory. It went into the conflict with a perfectly clear consciousness of the issue at stake, whereas the cause of its opponents was constantly obscured by complications which they could neither foresee nor accurately estimate. From Innocent III at the beginning, to Boniface VIII at the close, of the thirteenth century, there is a steadily rising series of papal victories over

these struggling national powers. From John of England and Philip Augustus of France and Philip of Swabia in Germany down through the reluctant loyalty of Louis the "Saint" and the fruitless activities of Frederic II, we find a corresponding list of illustrious victims of the relentless energy of the only power in Europe which stood for the dazzling mediæval ideal of a unified world under a single divinely ordained arbiter. We say single, because the fiction of a dual administration had by the close of the century been pretty thoroughly exploded. The Empire, floundering through the "Great Interregnum," had in fact abdicated its universal pretensions and had taken its place as an avowed elective monarchy under Hapsburg hegemony.

Another element of European life in the thirteenth century, not readily classified under the head of either religious or political action, remains to be noticed. The crusading fervor, reaching its height at the close of the twelfth century, subsided during the thirteenth into a quieter, but no less resolute determination to exploit the Near East for the benefit of the triumphant West. It was a situation comparable in many ways to the colonial activity of the sixteenth and seventeenth centuries. With all its rivalries and its obvious mixture of lofty and degrading motive, the impulse of the Crusades was essentially an outcome of that same unity of the European world we have been trying to understand. Its most active promoter was the acknowledged leader of that unity. It was papal authority that gave sanction to the commission of every soldier in this army of the Cross. Nations might send their contingents, and national jealousies were sure to encumber the campaign to the verge of ruin; but that principle of unity could never be quite forgotten. The issue of the conflict might be obscured by racial or

economic or political conditions, but at every crisis it stood out clearly as the duel of the Crescent and the Cross, and the victory of the Cross could be secured only by the continued maintenance of that European unity which had made it possible at first.

And finally we have to notice the appeal of this same unity to the artistic sense of the newly formed nations of the West. From the late twelfth all down through the thirteenth century arose those miracles of design and execution, the Gothic cathedrals. Developed to their highest perfection in one district of France, these fortresses of the faith were planted at every point of vantage throughout western Christendom. Lending itself to every variety of local adaptation, the Gothic art offered the widest medium for the worker in stone, whether in construction or in decoration, for the more subtle processes of glass manufacture, and for the countless other decorative arts that contributed to the splendor of the cathedral service. The most individual of all human motives, the artistic impulse, became the willing instrument of the one dominating passion, the consuming zeal for that house of God whose foundations seemed destined to endure forever.

Such, in briefest outline, is the picture of the "greatest of Christian centuries" — a human society dominated by one supreme idealistic motive. Whichever way one turns, in public and private law, in religious and philosophic thought, in humanitarian enterprise, in the display of physical force for great spiritual ends, in one of the most sublime expressions of artistic skill — everywhere one feels this impression of a single conscious ideal imposing itself upon an almost unresisting world.

And now, to come to the turn of the tide: If we may properly call the thirteenth the Century of Triumph, we

may with equal propriety speak of the fourteenth as the Century of Revolt. The tide had risen to the point where unseen forces, gathering slowly through many years, were to draw it down to a normal level. The proud structure, reared with such enormous outlay of energy, had overstrained the manifold tensions it had itself created. Reactions of many sorts were beginning to show themselves with unmistakable distinctness. Of these some were to be slow in taking definite shape, but others were to declare themselves with dramatic suddenness. If we may describe the bull *Unam Sanctam* of Pope Boniface VIII (1302) as the most complete expression in words of the mediæval ideal, we have a right to call "the crime of Anagni," only a few months later, the proclamation to all the world that that ideal was indeed gone forever. It had fallen before a new political force, which, struggling upward to an ever clearer consciousness of itself and of its mission in the world, had now come to an almost complete realization of the possibilities that lay before it. That force was the spirit of nationality. Beaten down again and again by the mediæval clerical and feudal *Internationale*, it had struggled to its feet after each attack and needed only capable leadership to secure its ultimate victory. That leadership it was to develop through the fourteenth century in the form of the national monarchies in fateful coöperation with the newly forming *bourgeois* elements of European society against their common enemy, the feudal aristocracies.

This efficient national consciousness, finding expression through the royal powers, notably those of England and France, but equally through the lesser, more and more monarchically developing governments of Germany and Italy, forms the historic background against which all the separate social phenomena of the fourteenth century may most instructively be studied.

Let us note, partly in chronological sequence and partly as suggested by one or another topic, some of the most striking illustrations of this general theme. Hardly had the downfall of Pope Boniface VIII at the hands of King Philip IV of France been recorded, when, also through the machinations of the French monarchy, the papal elective machinery was so manipulated as to secure the choice of a French pope and to keep him in France. This precedent once established, it was easy to make the transfer permanent. For two generations the regular rotation of the papal machine was utilized to keep it effectively gallicized. French popes created French cardinals, and the French majority among the cardinals produced a continuous series of French popes. One sees, of course, at once how completely the harmonies of the mediæval scheme were thrown out of gear by this violent transformation. The Empire, long since discredited as a partner in the divine administration of human affairs, ceases entirely to act in that character except in the imagination of poets like Dante and Petrarca, and in the quixotic adventures of "Kings of the Romans" like Henry of Luxemburg (1310), Ludwig the Bavarian (1327), or Charles the Bohemian (1356). Its place is taken in fact, though not in theory, by the nationalist kings of France and their Angevine cousins in the south of Italy.

The pretence of a universal papacy was still maintained, but a papacy which was, or was believed to be, the tool of one national state could no longer command the entire respect of the Christian world. England did not propose to pay tribute to a power which might use its revenues in the service of her deadly enemy, and all the thunders of the papal artillery could not frighten her government into a condemnation of John Wycliffe's anti-papal "heresies."

So far as the papal system itself was concerned, a profound revolution in the method of scientific thought was slowly undermining its very foundations. The old antagonism of Realism *versus* Nominalism was once more brought into the foreground of men's speculation upon the nature of human institutions. What was this "Church," which claimed the undivided allegiance of all Christian men? Was it a "reality" existing in the mind of God? Or was it a "name" useful as a means of describing an association of like-minded individuals, but having no "real" existence of its own? That inquiry, suppressed in the twelfth century and obscured by the splendors of the thirteenth, came now in the fourteenth pressing for an answer with an insistence that would no longer be denied.

The philosophy of Nominalism in the brilliant presentation of the English Franciscan, William Ockham (d. 1349), gathered into its following all the elements of intellectual discontent that were finally to unite in the Protestant Revolution. If it were true that the unit of the Church's life was the individual, then it seemed to follow with resistless logic that the source of its authority must be found, not in any divine commission to a personal or institutional leadership, but in the whole body of individuals, lay and clerical, who composed it.

The course of the fourteenth century is marked by a long series of declarations of this revolutionary doctrine of the Church. Starting with the complications arising from the French "exile," these searching speculations were greatly stimulated by the inevitable sequence of the exile, the "Great Schism" (1378–1415). The bodily return of the papal government to that Rome from which it claimed to derive its sovereign authority could not break the network of complications, political, economic,

racial, social, — everything but religious, — in which the French residence had involved it. French interests combined to block every effort of the Roman party to reëstablish its hold upon the allegiance of western Christendom. On the other hand the Roman Curia seemed incapable of learning the lesson, written large upon every page of contemporary history, that the confidence of Europe could be regained only by a radical change in the structure of the Church as a whole.

That is the significance of the word "council." Beginning with Ockham as a theoretical proposition, taken up by his contemporary, Marsiglio of Padua, as a political device, and rising to the surface whenever, as in the case of Wycliffe, papal authority came into conflict with a nationalist government, the demand for a General Council becomes more and more definite and acute as the efforts to break the Schism by other means prove successively ineffectual. The culmination of this demand in the great European Congresses of Pisa (1409), Constance (1414–1418), and Basel (1431–1448), carries us over into the following century; but the development of the sentiment which made them possible belongs within the current of fourteenth-century thought and is eminently characteristic of it.

It has been customary for historians to dwell upon the depressing aspects of the Great Schism — the divided allegiance of the faithful, their uncertainty where to look for the authoritative leadership to which they had been accustomed, the unseemly wrangling of the contestants for the vicariate of God on earth, the ruin, physical and moral, of the central seat of universal sovereignty at Rome. All these evident facts may certainly be so presented as to give a sufficiently dismal picture. The fault in such a presentation is that it fails to bring out the up-

lifting, constructive movements that were shaping a new future for European civilization. The conciliar movement is typical of all the rest. Even in the first caucuses of the French cardinals in 1378, previous to their secession from the sacred college and their election of an anti-pope, the suggestion of a General Council as the ultimate tribunal in all church affairs comes rather timidly and obscurely to discussion. Then, when the Schism was an accomplished fact, and the ingenuity of the most learned and subtle canonists was employed by universities and governments to devise ways of escape from it, this same suggestion is made again and again with ever-increasing emphasis. It was met by the ultra-curialists of both "obediences" with uncompromising hostility. They discerned from the beginning the irreconcilable opposition of ideas which it involved. If the ultimate authority of the Church was to be found in a council, then the doctrine of the *Unam Sanctam* was definitely abandoned.

Their alarm was still further increased as the details of conciliar organization came to be worked out. In all previous gatherings of the western church the initiative had been taken by Rome, and the conduct of business had been completely in papal control. But now, step by step, this theory of a council was being repudiated. The whole movement was gathering force, not from above or from the centre, but from below and from the circumference. The members of the efficient council of the future were not to be *summoned;* they were to be *sent.* They were to be, not selected officials of a highly organized hierarchy, but *representatives* of districts and classes, of states and cities and learned bodies, coming together *as of right.* Their deliberations were to be under the guaranty of secular powers, and their decisions needed no sanction from any other element of the Church. The sequel was

to show that these nominally religious assemblies were to be the most emphatic expression of European nationalism as yet attempted.

The word "nationalism" would seem to need no definition for us of the twentieth century. It stands in the forefront of all our political discussion. It represents the individualized group as distinguished from other groups, and from that vague something which is preached to us as "internationalism," or "planetism," or "humanity," or by whatever other name the spirit of anti-nationalism may seek to mask itself. Its distinguishing mark is an intense consciousness of group unity. Its highest passion is loyalty to the group and a readiness to sacrifice all one has in its service. But when this group consciousness has been secured, so that it is felt by every member, there still comes the question: through what organs is it to express itself in action? The answer to this question has been different at different times and among different peoples. Sometimes it has been through highly centralized monarchies; sometimes through monarchies restrained by the pressure of class privilege, and sometimes by one or another form of representation.

The most striking phenomenon of mediæval life is the weakness of this national sentiment as contrasted with the strength of the sentiment of class. The intricacies of feudal law, so baffling to the modern student, bear constant witness to the slight importance of the national bond. Loyalty to one's country is obscured by the closer fealty to one's feudal superior and by the all-embracing loyalty to the Church. This weakened sense of nationality is reflected in the feebleness of its nominal organs of expression. The power of the king is wholly dependent upon the good will of subjects who are often more powerful than he. They answer his call to service only upon

terms often humiliating and always costly to him. They scoff at his attempts to administer justice, and they keep him in a glittering poverty that prevents him from hiring efficient service in the field.

The fourteenth century is marked throughout by a persistent attempt on the part of the royal powers to shake themselves free from these paralyzing restrictions. The process varies in the several countries, but one thing is common to them all, and that is the steady development of a new organ through which the national life may manifest itself. I refer, of course, to the rise of parliamentary government. It begins, as was natural, by making use of the already existing forms of social structure. The "classes," as they had taken shape under feudal conditions, become the natural units of the parliamentary mechanisms. But then, in addition to these, there comes a new element, hitherto repressed, overlooked, or despised, the element of society for which there is no better term than our modern word "business." This word has recently been defined by a competent authority as "the process of selling things"; and that is a fairly good rendering of its historic meaning. Strictly speaking, it does not include the production of commodities; that is the domain of the mechanic arts and their allied sciences. It does include all those manifold processes by which commodities are conveyed from the producer to the consumer by the subtle laws of exchange. The most efficient medium of exchange is "money"; but until the fourteenth century, money had been regarded by the Christian world as tainted with a primal curse. Capital, that is to say, the surplus of wealth for the production of new wealth and thus for promoting the general welfare, was only just beginning to be understood. The dealer in money, usually a Jew or an off-color Christian, was regarded with

suspicion and dislike. So long as service, whether in war or in peace, was regulated by class obligation, there was little room for the use of money payments. It was only when the sense of class obligation began to be insufficient for the rapidly increasing demands of an expanding population that the necessity for money began to press more and more heavily upon the responsible leaders of society. If governments were to enter upon great national undertakings, they could no longer depend upon feudal levies of either troops or supplies. They must buy both, and a part of the price must be the granting of privilege and still more privilege for the hitherto despised agents of production and distribution.

The most valued and the most efficient form of this privilege was the right to share in the making of the laws that were gradually to take the place of the ancient feudal customs. The most important of these laws were, of course, those which regulated the revenues of the state, and here was the lever whereby the money power, henceforth to be known as the "Third Estate," was to pry its way into permanent standing as an indispensable and honored member of the social compact. The history of the English Parliament, of the French Estates General, of the German Reichstag, the Spanish Cortes, and notably of the Italian republican institutions, is one long story of the transition of European society from an economy of barter to an economy of money and credit.

The fourteenth century was the classic period of parliamentary experiments. In France, the middle of the century shows one brief moment when the "Estates," dominated by the bourgeois interests, actually held the government of the country in their hands. In Germany, at almost the same moment, the "Golden Bull" of Charles IV guaranteed to the members of the Reichstag,

including the free cities, those potent centres of the moneyed classes, such far-reaching privileges that this fundamental charter has been called the abdication document of the mediæval empire. At the same time, the English monarchy, locked in a desperate grapple with France for the control of Aquitaine, was forced to buy from a reluctant Parliament by one concession after another the support indispensable to the national cause. Italy, the leader of the world in popular government, was, it is true, already beginning to slacken her vigilance in the maintenance of her liberties; but even the boldest of her "tyrants" found their profit in keeping up the forms of parliamentary life they were learning so cleverly to manipulate. And, in the midst of all this struggle of the nations for the fullest expression of their national life, was little Switzerland proving at Morgarten and Murten, at Sempach and Näfels, the power of a new, self-reliant, determined, law-abiding people as against the impact of an outworn, fatuously over-confident tradition.

The bearing of this universal striving after some form, however crude, of giving expression to the popular will, upon the conciliar movement within the Church is obvious. The newly awakened spirit of nationality was henceforth to be the most potent ally of all those reformatory efforts that were eventually to change the whole structure of the mediæval church system. The example set by the parliamentary experiments of the fourteenth century was followed and improved upon in the great councils of the early fifteenth.

It needs but a moment's reflection to perceive how closely these social and religious changes were connected with that great awakening of the human spirit to which we give the characteristic name of Humanism. We have by now pretty well outgrown the notion that the revival

of classical learning in the fourteenth century was the cause of this awakening, or even its most impressive manifestation. Equally, if not more, important was the loosening of the tongues of men who spoke and sang in the language of their several peoples. We must think of Dante and Petrarca and Boccaccio and Chaucer and Christine de Pisan not merely as individual geniuses, but also as voices through which the genius of Italy and England and France became articulate. No longer in one stereotyped speech, — the artificial *lingua franca* of a world in uniform, — but in the natural vehicles of their everyday thought, were the nations of Europe henceforth to express their emotions of human affection, of personal loyalty, of historic pride, and of spiritual aspiration. The process was to be a long one. The classic tradition died hard, but, with the close of the fourteenth century, the ultimate victory was secure. The best service which the revived classic interest could render to the cause of European culture was in the ennobling and clarifying of those "undefiled wells" of human expression, the national languages of the European peoples. And this is as true to-day as it ever was. The apparent renewal of this same classic interest in our day and country has for its goal, not the reëstablishment of a new *lingua franca* for the greater convenience either of scholars or of business men, but, above all else, the rescue of our common speech from the abominations of a depraved journalism and the slovenliness of an ignorant, or, worse yet, of a half-educated, conversation.

Thus we see everywhere throughout this long-neglected fourteenth century the stirrings of what I have called Revolt. It is all one movement, with many variations of form. It is the revolt of the free spirit of man against the principle of authority as embodied in the institutions of

the Middle Ages. Signs of this revolt are visible to the seeing eye long before; that is one of the laws of historic progress. Recent scholars have made use of these signs to obscure, as far as they could, the line of demarcation between the centuries which we are here trying to bring out into clear relief. The impulse of emancipation will have yet a long course to run after the fourteenth century has closed; that is in obedience to another historic law. The continuity of History is not broken because we seem to interrupt it for a moment in order to gain a clearer understanding of one brief stage in its endless progress.

II

COLUCCIO SALUTATI, "DE TYRANNO"

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Historical Introduction

IT is a somewhat curious fact, certainly interesting and perhaps significant, that there should have appeared in Germany on the very eve of the World War two editions of an early Renaissance treatise, the purpose of which was to define the word "tyrant" and to defend the conception of the benevolent despot. The two editors, one a German, the other an Italian, were, in a very literal sense, "tumbling over" each other in their haste to bring out their respective products. Both editions were passing through the same Berlin publishing-house at the same time; but we are told by the Italian editor, Professor Francesco Ercole of Urbino, that the publishers were not at first aware that the two manuscripts in their hands dealt with the same treatise. He adds that his own manuscript was given to the publishers some months before that of his rival, Dr. Alfred v. Martin, who, "accidentally hearing from an official of the Laurentian Library in Florence that another edition was in preparation, hastened the publication of his own."

Each edition is accompanied by a critical commentary which makes its own contribution to our understanding of the work and its place in the literature of the subject. The two editors approach their task from somewhat different points of view. Dr. Martin's interest is primarily that of a student of literature, and Salutati is to him, first

of all, a Humanist.[1] A few months after the publication of the "De Tyranno," he published a further study of Salutati as an exponent of the mediæval conception of the world and of life.[2] Again, three years later, Dr. Martin put forth a third volume on Salutati as a representative of the humanistic ideal.[3] Professor Ercole is a jurist and writes primarily as a student of legal history.[4] His book is the first volume in a series of studies in the philosophy of law. The impulse to both publications was doubtless given by the appearance in 1911 of the final volume of the correspondence of Salutati, the monumental life-work of Professor Francesco Novati.[5]

Coluccio Salutati represents to us that stage of early Italian Humanism in which it passes out of the hands of men of genius and becomes the common property of a great variety of less highly endowed but more thoroughly trained and more practically useful types. When we hear the word "humanist" we think naturally first of Dante, that towering figure, who, still encumbered with the débris of mediæval obscurantism, rises above it through the force of an insistent personality; then of Petrarca, "the first modern man," an individual who actually does his own thinking over a wide range of topics; and again,

1. *Coluccio Salutati's Traktat "Vom Tyrannen," Eine kulturgeschichtliche Untersuchung nebst Textedition von Alfred v. Martin*, 1913. (Abhandlungen zur mittleren und neueren Geschichte, Heft 47.)

2. *Mittelalterliche Welt- und Lebensanschauung im Spiegel der Schriften Coluccio Salutatis*, 1913. (Historische Bibliothek, Bd. 33.)

3. *Coluccio Salutati und das humanistische Lebensideal*, 1916. (Beiträge zur Kulturgeschichte des Mittelalters und der Renaissance, Bd. 23.)

4. *"Tractatus de tyranno" von Coluccio Salutati: kritische Ausgabe mit einer historisch-juristischen Einleitung von Francesco Ercole*, 1914. (Quellen der Rechtsphilosophie, Bd. I.)

5. *Epistolario di Coluccio Salutati a cura di Francesco Novati*, vols. i–iv, 2, 1891–1911.

of Boccaccio, the unrestrained story-teller, brimming over with the exuberant joy of human experiences, indifferent to the moralities, asking only to be read and enjoyed. And there most of us stop, with the conventional remark that the Italian Renaissance is now fully launched on its triumphant career and is bound to go on enlightening and humanizing the world. The spirit of the "school" is to be displaced by the spirit of the individual talent, expressing itself as it has the impulse and the capacity to do.

The process of this enlightenment is as complicated as it is interesting. The thread is often lost in the intricacies of the new life into which Italy was leading the peoples of the Latin culture. It is the problem of the historian of literature and of civilization to recover it and follow it, so far as he can, until it leads out into the melancholy brilliance of the Medicean era. Through this second humanistic stage the most striking phenomenon is the steady lowering of intellectual altitude and the equally steady widening out of intellectual capacity. It is the common quality of the three great leaders we have mentioned that they were scholars and poets in the highest idealistic conception of those words. None of them exercised any definable profession. As scholars, each of them had learned something of all professions. As poets, that is, creators, they gave frequent and bold expression to opinions involving wide technical knowledge. Yet they stood above and outside of all professional activity with that detachment that belongs only to the highest genius.

In the second and third humanistic generations we find precisely the opposite condition. Humanism begins to permeate and to vitalize the practice of every kind of human effort. The scholar himself becomes a professional. He makes his living as a teacher, or as a copyist, or as a translator — seldom as a creator. Scholarship becomes a

qualification for a wide range of social usefulness. Where the priest had once been the literary adviser of princes and patrons, the scholar now takes his place. Dignities and honors are heaped upon him. Sometimes he becomes a "gentleman" simply because he has become a scholar. He is utilized for all the multiform needs of the incredibly acute and exacting populations of the Italian city-states. His pen — often, alas! only too ready for hire — is in request for the countless controversies in which citizens and rulers of these communities are involved. He is entrusted with delicate negotiations between the governments of cities and the greater sovereignties of the European group. At the foreign court he is treated with a respect proportioned to the influence his eloquence may exert in the politics of his own town, and at home he is valued for the service this same eloquence may render abroad.

The scholarship which is the glory of the fourteenth- and fifteenth-century humanist is based upon a critical study of the ancient classic literatures, and the emphasis here is on the word "critical." Of course, the Latin literature had been studied without interruption from the Roman time, but the most striking feature of that mediæval study had been its lack of critical spirit. It shared with all other interests of the time that receptive instinct inevitable in an age when religious discipline controlled the thoughts of men. Prescription, not investigation, was the watchword of educational method, and the result was obvious. The classical heritage was handed down, with reverence indeed, but with dread as well. Curiosity about the heathen writers was a signal of danger that gave prompt warning and was followed by strict repression. The source of this ever-present mediæval dread of the unknown was a conception of human life that in succeed-

ing ages has come to be felt as a degrading one. Humanity in this conception was a thing of worth not in itself, but only as a vehicle for the working out of a divine plan. The supreme mediaeval virtue was self-suppression, the reduction to their lowest terms of all those impulses summed up in the one damning word "natural." The mediæval student of the classic literatures found himself in the presence of a totally different conception of humanity and shrank back from it as from a temptation of the devil. The conventions of his education compelled him to make acquaintance with this dangerous and fascinating world, but it was his duty as a good Christian to keep this acquaintance as casual as might be. Holiness, in the judgment of the time, was incompatible with humanness.

The characteristic marks of the period of transition with which we are here concerned are the clear recognition of the value of human life in itself and the attempt to reconcile this altered view with the maintenance of the religious formulas of the Middle Ages. Men were working themselves free from the ancient trammels of superstitious dread and striking out into ever-widening paths of inquiry and discovery; but they were still nervously anxious not to seem bolder than they were. They were going on fearlessly in the study of that classic world from which they imagined themselves to have received their dominant impulse; but they guarded themselves carefully by constantly repeating that the foundations of their faith were unshaken, that they would accept nothing which the authority of the Church should reject, and that they desired nothing more than to employ their newly acquired learning in the service of religion. It was a subtle method, more subtle probably than they knew; and the effect of it was to draw the more enlightened minds of the ruling clergy ever more and more into the circle of the humanistic occupations.

The practical question for a bright young Italian born near the middle of the fourteenth century and inclining to the pursuit of scholarship was that of such young men in most periods of intellectual activity: what could he do with his scholarship after he had got it? The answers to this question were growing steadily more numerous. The careers in which a truly humane education would be more of a help than a hindrance were increasing in number and attractiveness. Even the clerical profession was beginning to be felt as not incompatible with a liberal culture that would increase its contacts with the brightest minds. Pathetic cases of conflict between the devotional and the intellectual sides of a young man's nature betray the workings of the new leaven, and were likely to end in some practical adjustment. If the youth were worth the trouble, such an adjustment was fairly certain to be found in constantly new interpretations of the meaning of true learning. The weaker nature gave it up and fell back into the conformities to which weakness inevitably tends.

The important thing was that some practical use for the "new education" was certain enough to justify the expenditure of time and energy in acquiring it. The law is proverbially a highly conservative profession, and a "humane" lawyer may suggest an even greater anomaly than a "humane" clergyman. If that be true of legal learning as we understand it, — that is, a combination, in greater or less proportions, of a knowledge of legal principles with the actual formulas of legal practice, — it must seem still more significant in the case of a training limited almost entirely to the formal side of the profession. The notary of the fourteenth century suggests a figure almost as far as possible removed from any conception of humane culture. His professional learning consisted chiefly

in a minute knowledge of the formulas necessary in the preparation of legal documents — as dry a subject, one would suppose, as could offer itself to the ambition of a cultured youth desiring to rise to a position of some account in the world of letters and of human activities. And yet it is along this arid road that some of the cleverest minds of the early Renaissance advanced to a high degree of literary accomplishment and to a social influence limited only by their individual capacities.

Among these luminaries of the second magnitude Coluccio Salutati holds a conspicuous place. He was a Tuscan of the purest stock, born in the year 1331, in the little commune of Stignano in the hill country of the Valdinievole. It was a region lying along the middle course of the Arno, and constantly in dispute between the rival claims of Florence and Lucca. In terms of the greater partisan conflicts of the day, it was tossed back and forth between Guelph and Ghibelline according to the varying fortunes of the papal-democratic or the imperial-feudal elements of the Tuscan population. Of Piero Salutati, the father of Coluccio, we know only that he was a substantial citizen "of equal repute in arms and in counsel."[1] He belonged to the Guelph faction, was its local chief, and consequently, "on the outbreak of one of those party conflicts so common among the Tuscans," he was driven out of the town and his estate was confiscated by the victorious Ghibellines of Lucca. On the strength, apparently, of his well-known qualities, he was invited by Taddeo Pepoli, ruler of Bologna, to settle there; and thither, after a few months, came his wife with her new-born son, Coluccio. The boy grew up at Bologna under the favoring care of the ruling dynasty of the Pepoli, a marvel of precocity if we could

1. Novati, iv, 2, 385.

trust the fulsome eulogies of his later admirers. By his sixteenth year he had mastered the whole course of training in the "humanities" and entered upon the study of the law. Four years later, in 1351, he appears in a document as *imperiali auctoritate notarius et judex ordinarius necnon et offitialis communis Pescie.* In other words, by the time he was twenty, he had become an accomplished scholar and had already begun his career as notary in the employ of the commune of Pescia, the most important town in the Valdinievole.

From this time until his definite appointment as Chancellor of the Florentine state, we have only scraps of information as to Coluccio's professional activities. The evidence of all these scattered notes seems to indicate that he lived a wandering, uncertain, not to say vagabond existence, getting temporary employment wherever he saw his chance, but always in the line of his chosen profession. It is impossible to escape the impression that his real preoccupation during these years of apprenticeship was with literature pure and simple. He seems to have been the perfect type of the "briefless barrister" of the English literary tradition. Where we do find trustworthy notices of his activity, however, it is always in connection with relatively important posts. In 1367 he appears as Chancellor of Todi in Umbria. An experimental year in Rome gave him no permanent attachment, and in the year 1370 he is back again in Tuscany as "Chancellor of the Anziani" at Lucca. Political troubles drove him out of office after one year, and we find him in his native Valdinievole, practising as notary without official position.

The manner of his entrance into the service of Florence is obscure. According to a notice in a writer of the sixteenth century unsupported by any contemporary evidence, his name appears as early as 1370 in a list of

Florentine notaries. It is quite possible that in the course of his wanderings he may have been given some temporary occupation at Florence, perhaps as a means of testing his capacity, a procedure wholly in accord with the practice of the canny managers of the Palazzo della Signoria. It is not, however, until the summer of 1374 that we find him regularly installed in office as an official notary. The position of Chancellor was at that time held by one Niccolò Monaci, who had long been under the suspicion of negligence and fraud in his administration. In the spring of 1375 he was brought to account, tried, deposed from office, and later was banished from the city.

Thus was opened the way for Coluccio's promotion. April 19, 1375, he was formally elected Chancellor for one year. This appointment was regularly renewed, and for the next thirty years he remained the central figure on the formal side of the Florentine administration. His occupancy of the Chancellor's office ended only with his life (1406). At its close he received the most flattering eulogies of his character as a man, of his talent as a literary artist, and of his extraordinary ability in the discharge of the arduous and varied duties of his office. Making all allowance for the extravagance in expression characteristic of the age, we cannot escape the impression of a rare personality. The mere ability to hold office for a full generation amid the perpetual shiftings of Florentine politics indicates a quality unusual at any time or place, and especially noteworthy at a moment when the democratic institutions that for two hundred years had been the glory of Florence were giving way under the strain of continuous party struggle, and passing over gradually under the control of leaders who were shaping them for the Medicean "tyranny."

What was this office, to which the term Chancellorship

or Secretaryship, or Chief Notariate, may be applied with almost equal propriety? The careful researches of Professor Marzi [1] have made an answer to this question very much more nearly possible than heretofore, although, as he frankly admits, there still remains room for considerable variety of opinion in matters of detail. The chief cause of uncertainty is the extraordinary ingenuity of the Florentines in devising ever new machinery for the accomplishment of needed results in their civil administration. Upon the basis of the constitutional reforms of 1293, known as the "Ordinances of Justice," they had built up a system of government by larger and smaller councils, with, at the top, a perpetually shifting board of officials, the Priors, selected from the heads of the dominant trade guilds and represented ordinarily by the newly created executive officer, the Gonfalonier of Justice. The prevailing motive in the almost incredible minuteness of regulation in the working of this complicated machine was jealousy of long-continued power. Every device known to political science was applied to prevent the perpetuation in any one hand, or in any definable group, of powers that might be dangerous to the liberties of the community as a whole. Like all democracies, the Florentine dreaded expertness in any kind of public activity. A corollary of this dread was the sense that any honorable citizen was qualified to fill any public office. The expression of this idea is found in the use of the lot in the selection of officials. At the base of the whole mechanism lay the "eligible lists" of citizens available for office, the *imborsati*. Elaborate rules provided for the preparation, the conservation, and the renewal of these lists. The processes of drawing (*tractatio*) were prescribed with

1. Demetrio Marzi, *La Cancelleria della Repubblica Fiorentina*. Rocca San Casciano, 1910.

painful precision. Every precaution seemed to be taken, every danger anticipated.

Yet it is precisely through a fatuous dependence upon the working of this machinery that the liberties of Florence were gradually encroached upon and finally destroyed. It is obvious that whoever controlled the making up of the lists must eventually control the personnel of the offices, and through this the policy, both internal and external, of the commonwealth. It is precisely as if, in one of our greater American cities, the voting lists should fall into the hands of a small and determined group of citizens, who should then so manipulate them that a majority of the votes would always be cast for the candidates of this group. To prevent, or at least to minimize, this danger the Florentines established a separate bureau, the *Uffizio delle Tratte*, the "Board of Drawings," to which was entrusted the preparation, revision, and guardianship of the lists, and the whole procedure of the drawings and certification of the results. At the head of this bureau was an official known as the *Notaro delle Tratte*, the "Notary of the Drawings." It is evident that this was one of the most responsible notarial positions in the whole Florentine administration, one demanding especially those qualities of personal character upon which the fate of free institutions must in the last resort depend.

It is, therefore, important evidence of the reputation for personal integrity as well as for professional skill already attained by Coluccio Salutati that his first appointment in the Florentine service was as Notary of the Drawings. His service must have given satisfaction, for within a year we find him using the title of Chancellor, the name by which he continued to be known during the whole of his long term of office. To understand the mean-

ing of this word, we must examine it briefly in its relation to the various meanings of the word Notary as employed in the Florentine Chancery. Besides the Notary of the Drawings we find the Notary of the Councils, the Notary of Reforms, the Notary of the Signoria, and the Dictating Notary (*Notaro Dettatore*). These offices might at a given moment be in different hands, but there is no obvious reason why they might not be combined in any way which seemed likely to facilitate the public business. There does not seem to have been any regular hierarchy among them. None was the superior of all the rest; but certain shades of meaning become clear as time goes on and as the relations of the Florentine state widen out into ever more complicated situations.

We include in the Chancery those offices in which were worked out the acts of the Councils and of the supreme magistracy of the Republic, and in which were gathered all the activities belonging to this process. In these offices were written, registered, collected and published the acts, debates and ordinances of those citizens who were directly invested with power, the acts, laws, provisions of the Councils of the commune, the letters and despatches concerning the discussions and agreements with other states, — or, to sum up, in those offices was prepared and executed whatever belonged to the supreme administration of the state. So that our Chancery corresponds on the one side to those of the smallest communes and cities and on the other to those of the lesser principalities, both lay and clerical, and also to those of the greater sovereigns.[1]

The most important variation in the notarial character involves a distinction between the purely formal, legal functions of the notary and the higher requirements of an office that often came fairly near our concep-

1. Marzi, p. 14.

tion of a prime ministry. In fact, the academic education of the notary reflects with curious exactness the development of his functional importance. During the twelfth century the Law School of Bologna had evolved a two years' course of special instruction for the notarial career, whereas the full course in canon law required six, and that in the civil law eight, years of study. It is wholly probable that Salutati's choice of a career was determined by the necessity of earning a living in the shortest possible time. It is evident that the actual demands of the notarial profession did not imply any considerable degree of intellectual culture. A pretty meagre equipment of classical learning sufficed for the preparation of the technical forms of legal procedure. But with time this condition of things changed. The textbooks begin to include some instruction in what we may fairly call the literary requirements of the office, and here we meet the word *dettatore* (dictator), sometimes combined in the expression *notaro dettatore*, a notary, that is, who not only was skilled in the formal side of his duties, but was capable also of clothing what he had to say in good literary style. A still fuller title for such a person was *notaro dettatore delle lettere e istruzioni*.

The word Chancellor, then, used rather loosely at times as almost the equivalent of notary, had acquired at Florence before the time of Salutati the practical meaning of Head of the Civil Service. Perhaps the expression General Secretary gives, as well as any other, the idea of the multitudinous functions that centred about the Chancellor's office. He was a notary, but he was more than that. He was at once a legal person and a public official. Especially in all that pertained to the foreign policy of the commonwealth, he stood out from the ordinary crowd of formally trained notaries as a man whose

exceptional responsibilities required an exceptional degree of personal attainments. And yet it must not be forgotten that this responsibility of the Chancellor was not in the least that of an executive officer. The executive branch of the government was vested in the Signoria, the College of Priors. All questions of policy, internal and external, were decided by it, and its right to such decision was guarded with the utmost jealousy. The Chancellor was its servant; his responsibility was to it, and the excellence of his administration lay in the skill with which he was able to carry out its wishes.

It would probably be going too far to say that Salutati as Chancellor had coercive authority over the other branches of the public service; but it does seem clear that he was expected to coördinate their activities in such ways as should be of the greatest advantage to the state. The most striking feature of the Florentine administration was its flexibility. New emergencies were met by new combinations of authority. New councils were established, old ones reformed, new commissions issued, even new executives summoned from outside to help the government over hard places. The modern student is puzzled to see how a commonwealth could live and prosper in the midst of such tumults as are described in the Florentine chronicles. The explanation is largely to be found in the persistence of the notarial organization we have thus briefly sketched. Through all the shiftings of party politics the work of the several branches of the civil administration goes on. The records of the councils are preserved, the decisions of the Signoria are recorded, the foreign representatives go about their missions, the correspondence with the lords and communes of Italy and with the kings beyond the Alps continues. The economic life of the little community grows more intense and more profitable.

A word as to the source from which the Italian notary derived his right to certify the formal accuracy of the documents drawn up by him. Such right was a personal one, entitling the holder to practise his profession anywhere. It must, therefore, be derived from some authority recognized as having a universal jurisdiction, and of such there were, according to all mediæval tradition, two, the Empire and the Papacy. Both these powers clung with especial tenacity to such meagre evidences of their once unquestioned rights as were furnished by these purely formal functions. Indeed it seems as if, in proportion as they lost one after another of their coercive powers, they grew more insistent upon these strictly ideal claims. Salutati, as we have already noted, signs himself in the first of his known documents, "by imperial authority notary and *judex*." From whom he received the right to use this title we do not know, but it is safe to assume that it was from one of those rather pitiful figures known in Italy as "imperial vicars," generally local nobles, leaders of imperial troops that were usually absent, collectors of imperial taxes which could not be collected, and judges of imperial courts which no one respected. Such an official could at least sign papers with the imperial stamp, and would not despise the fees thus cheaply earned. The university guaranteed the course of study, but the Empire, the shadowy representation of that source of law to which the world liked to trace back its legal institutions, gave the authority that made the study practical.

It would seem, therefore, that Salutati, not a Florentine by birth and certainly not identified with any of the more important political groupings that determined the course of Florentine politics, was chosen for the conspicuous office of Chancellor, for three reasons: first, for his special training and not inconsiderable practice in the

notarial profession; second, on account of his personal reputation for integrity, diligence, modesty, and efficiency; third, for his well-established fame as a literary man after the latest fashion. As regards his strictly notarial qualifications, we have no reason to suppose that they were greater than those of scores of other graduates of schools or offices where the professional technique was acquired. The notary's "art" was not one admitting of a wide range of capacity. Personal integrity, on the other hand, was an asset of the greatest value in a community where commercial rivalry was keen and material success coming to be increasingly the measure of a man's quality.

In the centre of the strife of parties, the war of classes, and the wrestling of business interests, it was of the highest importance to have a permanent official who should be independent of all these conflicting claims. It appears that Salutati steered his course through the troublous times of his long administration with quite extraordinary self-control and to the general satisfaction of all concerned. In the numerous tributes paid to him after his death in 1406, the dominant note is of admiration for these sterling personal qualities. Poggio Bracciolini, not the sweetest of natures, wrote to Niccolò Niccoli:[1]

> We have lost a father whose like we shall not easily find again. We have lost a scholar most eminent in every branch of learning. We have lost a man dear to us above all others. We have lost the haven and refuge of every scholar, the light of the Fatherland, the glory of Italy. Many famous men we have known; much we have read of others; so many gifts of nature, such power of learning, so many good qualities combined in one man you could certainly never have found. Not to mention the great influence of his wisdom and eloquence, in whom would you find such culture, such geniality, consid-

1. Novati, iv, 2, 471.

eration, and cheerfulness as in this most holy man — for no other word ought to be used of him. And these qualities, combined as they were with profound learning and the authority of age, made his companionship and conversation agreeable beyond comparison.

At the height of Salutati's fame, about the year 1395, Domenico Bandino of Arezzo, in his *Fons memorabilium universi* [1] wrote of him:

The splendor of his eloquence became with time so brilliant that his almost countless prose letters show how kings, prelates, and emperors tried to persuade him by incredible rewards to enter their service; but his godlike integrity [*bonitas*], because it was useful to our Fatherland, outweighed the gifts of prelates, kings, and emperors. He really preferred to be called "Chancellor of Florence," in modest enjoyment of his intercourse with its many learned and gifted citizens, as, so to speak, a model for the highest virtue, rather than to be gazed at in the courts of pontiffs and emperors in pompous dignity and surrounded by a crowd of satellites. Nor is this to be wondered at; for Coluccio is a phœnix of talent and character unique in the whole world, ennobling, not only the Fatherland, but all Europe, reviving once more and excelling the genius of all the ancient poets.

Ludicrous as this extravagant eulogy must now appear, there is no reason to doubt its sincerity. It is in harmony with the whole spirit of the day which saw in these "new" poets miracles of genius comparable to the wonder-workers of our own day in the fields of verse, of painting, and of music. It is the same atmosphere of emancipation from the trammels of a tradition that has outlived its creative period and is trying to maintain itself by the methods of authority.

1. Novati, iv, 2, 503.

In estimating Salutati's literary merits we are concerned here only with that aspect of his work which affected his quality as a public official. He tried his hand at almost every variety of Latin composition in prose and in verse, but above all else he was a writer of letters. His quality came out most clearly when some occasion called upon him to express himself on some definite topic. An inquiry from a younger scholar, a commission from the government to conduct some negotiation with a foreign power, an implied reproach for some expression of opinion — these and other similar occasions were enough to start the current of his ready eloquence, and, once started, it flowed on, branching out into all manner of side issues, decorating itself with borrowed flowers of rhetoric and displays of classic lore.

His epistles thus became essays intended for wide reading rather than personal communications from man to man. Whatever other motives led to the first appointment of Salutati in Florence, there can be little doubt that the most important was his literary reputation. Such an appointment must not, however, be understood as a prize for success in literature or as an endowment for literary leisure. The analogy of our American consular service in the days of Hawthorne or of Howells will not apply here. The prudent Priors of the trade unions which governed the Florentine state were not investing their hard-won gains in just that way. We may be sure that in choosing for the head of their civil service the most famous scholar available within the class of notaries, they expected a full *quid pro quo*. They foresaw in the growing complications of peninsular politics the need of someone to give to their official utterances the most distinguished as well as the most persuasive possible form. Diplomacy was, on the whole, cheaper than fighting, and

the Florentine merchant or manufacturer was little inclined to take the risks of war if they could be averted by skilful negotiation.

Most significant is a formal document of the year 1388, recording the reëlection of Salutati to the office of Chancellor.[1]

The aforementioned Priors of the Guilds and the *Gonfaloniere di Giustizia* of the people and commune of Florence, together with the standard-bearers of the people's associations and the twelve *boni homines* of the said commune, sitting together in the aforementioned place according to custom, having in mind the reputation for integrity of the singularly gifted Sir Coluccio, son of Piero and disciple of Cicero, that fountain of eloquence and most brilliant of orators, unrivalled mirror of natural and humane learning, through whose extraordinary talents as displayed in his letters composed in dignified form and elegant style, the city of Florence is marvellously distinguished before the whole world, and remembering that his election as Chancellor and Notary of the Drawings will soon expire, and desiring to make new provision therefor . . . have chosen, named, and deputed the famous and distinguished Sir Coluccio, son of Piero of Stignano, to be Chancellor and Pro-Chancellor of the commune of Florence and Notary of the Drawings of the said commune, and Notary for doing all and singular other acts pertaining to elections for the term of one year.

How well these expectations in regard to Salutati were fulfilled is shown by the whole history of his administration. Its most vivid expression is found in the famous anecdote of Gian Galeazzo Visconti, Duke of Milan since 1395, reported in a brief sketch of Salutati by Marcantonio Nicoletti about 1550.

1. Novati, iv, 2, 465.

The prose writing of this man was with good reason admired by the learned as spreading sound opinions drawn from every source and displaying the brilliancy of ancient eloquence. But princes praised it beyond measure because, like a well-adjusted instrument of war which protects friends and injures enemies, it supported both the proposals and the replies of the Florentines with serious philosophical and unanswerable arguments, and completely broke down the reasoning of the ill-advised [*temerarii*]. Wherefore the Duke, in order to get rid of him, — for the cursed rule of war oppresses the work of tongue and pen as well as the action of sword and lance, — laid various traps for him. Among other tricks he caused a letter counterfeiting the hand of Coluccio and containing many treasonable expressions to be laid before the Signoria. This letter was shown to Salutati in the presence of the highly excited Senate, and he was asked in whose hand it was written. He read it through without a change of countenance and replied boldly, without a tremor in his voice: "The hand is indeed mine; but I never wrote the letter." And this answer — such is the power of a well-established reputation — freed him completely from all suspicion and from the very thought, not to mention the execution, of such an unworthy purpose.

This same Nicoletti repeats the story told by Rafaello Volterrano (d. 1522), that "Gian Galeazzo used to say that a letter of Salutati did him more harm than a thousand Florentine horsemen." [1]

The Chancellor was called upon, not only to frame public documents in due legal form, but to give them such a quality of elegant Latinity as should reflect the highest credit upon the commonwealth. This was the quality expressed by the word *dettatore*, which we may, perhaps,

1. Raph. Volterrano, *Commentarii urbani* (Basel, 1544). Novati, iv, 2, 514, n. 2. By the time of Ammirato (d. 1601) the thousand horsemen had grown to twenty thousand. *Storie Fiorentine*, lib. xiii, Gonf. 499.

best translate "stylist," the man who could put style into the most formal official communication. The importance of this literary qualification we can understand only by realizing, as well as we can, the amazing enthusiasm for classical learning which had seized upon all Italy, and of which Florence was the recognized centre. Petrarca died in the same year in which Salutati came to Florence, and Boccaccio followed him in the next year (1375), the same in which Salutati received his first appointment as Chancellor. In that year there was no one in sight upon whom their mantle seemed more likely to fall than upon him. To the men of his day he appeared as the perfect type of the all-round scholar.

Domenico d'Arezzo, writing about 1390,[1] says:

> Coluccio, son of Piero, is in my opinion unique in his command of the mystery of Nature, the only person who combines in his thought and in the eloquence of his style things human and divine in such extraordinary measure as to surpass all the famous authors of antiquity. Who of these, were he now living, would not praise you in the highest terms for your excellence in all sciences and in every form of talent? Who would blush to be thought inferior to you? Empedocles expressed himself in songs, Plato in dialogues, Socrates in hymns, Epicharmus in music, Xenophon in history, Xenocrates in satires. Or, if these smack too strongly of antiquity or seem to be examples taken from foreign peoples and rusty with age, listen to these later ones of Roman origin. Vergil was lacking in prose, and so was Ovid, while Livy, Valerius, and Cicero were destitute of poetry. Now Coluccio cultivates all these and does it with such judgment and elegance that no one can fail to find in him the fullness of wisdom.

Such gross overestimates of Salutati's genius were, of course, absurd, yet they fairly represent the overwrought

1. Novati, iv, 2, 504.

enthusiasm of a "new" age. The one redeeming thing about the whole movement is its reaction upon the literature of the vernacular. At first reluctantly and apologetically, with a lofty condescension, but then with a full appreciation of the splendid possibilities of the *lingua volgare*, the scholars of the quattrocento came to see that Dante and Petrarca and Boccaccio were the true leaders of the national revival, to glorify them, and, so far as in them lay, to imitate them. Nicoletti, Salutati's sixteenth-century biographer, says of him: [1]

> He fixed his eyes with admiring attention upon the writings of antiquity, but did not on that account despise the intellectual product of his own time. He held Petrarch and Boccaccio in especial honor. Upon the sonnets of the former he has left us graceful and learned comments [showing how], after the despatch of most weighty affairs, he sought recreation for his mind by bathing his lips in the fountains of Italian poetry. And in praise of Boccaccio, having the custom of going often to Certaldo and lingering at the tomb of that most illustrious father and exemplar of Tuscan narrative prose, he caused to be engraved in stone a Latin inscription which may be read there to this day.

Such were the endowments which Coluccio Salutati brought to the arduous task that occupied the last thirty years of his life. What led him, after a quarter of a century of active practice in public business and the leisurely cultivation of literature, ancient and modern, to put into writing his thoughts about the nature of despotic government? To answer this question we must have clearly in mind the conditions of Italian politics in the second half of the fourteenth century.

As one glances at the record of Italian events between

1. Novati, iv, 2, 515.

the years 1375 and 1406 it seems to be nothing more than a story of blind struggle for land and power among a disorderly horde of feudal princes, petty landholders, city communities, and clerical foundations, without principles of unity or recognizable political aims. Narrative histories, both contemporary and later, have generally concerned themselves with dramatic details tending to illustrate these confusions, but giving little help in our attempts to understand their real significance. We easily forget that there was, defining itself ever more and more clearly, an Italian people, sentimentally and ideally conscious of itself, however its several elements might quarrel with each other. It had already found expression in great masterpieces of Italian literature and was working itself out in a continually freer and wider expansion of the plastic arts.

It is instructive to think of the political confusions of the time as only another expression of this same national vitality, and to remind ourselves that, as a new and firmer political order grew out of apparent chaos, the vigor and originality of the Italian genius declined at an equal pace. If we regard the late thirteenth and the early fourteenth centuries as the classic period of Italian "particularism," we may fairly discern, in the years when our Coluccio was coming to the full maturity of his powers, a steady movement away from political disintegration and toward concentration in larger units. There was going on in Italy in those years a process in every way comparable to that which made out of the Germany of the Thirty Years' War the compact and well-nigh irresistible political structure of the Bismarckian era. What was called in Germany "mediatization," that is, depriving the smaller sovereignties of their "immediate" dependence upon the Empire (*Reichsunmittelbarkeit*), and bringing them under the di-

rect control of larger units,—this process went on in Italy at a great pace, though by different methods.

From the middle of the fourteenth century the outlines of this obscure political movement become clear to every observer. Five great centres of power now stand out from the mass of wrestling units as candidates for that leadership in Italian affairs out of which Italian unity was eventually to grow. Milan and Venice in the north, Naples (*il Regno*) in the south, Florence and Rome (*la Chiesa*) in the centre, these are the rubrics under which the history of Italian affairs is henceforth to be written. With the single exception of Naples, where foreign monarchical influences, Norman, German imperial, French, and Spanish, had left their successive traces, all of these greater powers had emerged from the twelfth century under strongly marked republican forms. Varying greatly among themselves, with a bewildering variety of constitutional mechanisms, they were all so many expressions of that furious self-assertion that was the most striking trait of the Italian Renaissance character. Even *la Chiesa*, its ruler for two generations a foreigner and an absentee on French soil, could never forget that it was, after a fashion, the heir of that *populus romanus* which had once ruled the world.

The problem of the fourteenth century was whether republicanism, thus localized in every Italian corner, could stand the strain of these new and larger rivalries. The solution of this problem is found in the emergence of powerful individuals and groups whenever the stress of foreign politics demanded that kind of promptness and decision in action which masses of men can seldom achieve. In such crises the forms of constitutional republicanism — not to say democracy — were set aside or manipulated to permit the strong man or the well-organized group to take

matters in hand and carry them through to a conclusion. Indeed, the republican constitutions themselves recognized the value of individual executive action. In that singular official, the Italian *podestà*, we find the embodiment of this idea. The *podestà*, the executive and judicial officer of the commune, was regularly an outsider, appointed for a short term and representing the community as a whole.

It is very significant to note, however, that the Italian *tyrannis*, toward which we are moving, was seldom developed out of the podestate. The office of *podestà* became, almost like the notariate, a professional function, the regular occupation of a class of officials trained in the practice of normal executive duties and exercising their profession in the employ of one after another of the Italian communes. An attempt by such a foreigner to get control of the machinery of government would be met by the combined and furious opposition of every local class.

The evolution of the Italian "tyranny," whether in the hands of an individual or of a group, was a much more subtle process. It was generally the proof that democratic institutions had failed to work, or were beginning to work badly, and that they must be directed or supplemented by the continuous activity of the man or the group that could see what needed to be done and would go ahead and do it. The reader familiar with American city politics needs no further reminder to show him how these "bosses" and "rings" could manipulate the mechanisms of the Italian communes and bring them into line for really great undertakings.

At the beginning of Salutati's chancellorship, in 1375, this evolution of the Italian communes into semi-monarchical governments and the concentration of the lesser

under the greater states was well under way. Naples, from the twelfth century under a monarchical régime, needs no further remark. It was always present as an example for warning or for imitation to the statesmen of the north. In Lombardy, where a jealous republicanism had once broken the power of the Hohenstaufen empire, and defeated every attempt at political concentration, the Visconti of Milan had now gathered into their hands the reins of government throughout the greater part of the Po valley. By a singular combination of intrigue, compromise, ferocity, and statesmanlike vision, their most typical specimen, Gian Galleazzo, had tightened the grip of Milan on this whole northern territory as far east as the lands of Venice, and was building on southward, reaching out toward Pisa in the west and the Umbrian cities in the east. It seemed almost as if this monster of infamy, finesse, and piety were about to anticipate the work of his successors by five hundred years, and to unite Italy under the powerful leadership of her most acute and enterprising population.

That this result did not follow was owing to the unfaltering opposition of the other factors in Italy's political development — Venice, and, above all, Florence. If Venice succeeded, as she marvellously did, in avoiding the rule of one man or one family, she offers us the spectacle of one of the most efficient and highly centralized "rings" in all human history. With her face long turned toward the east, Venice came comparatively late into the game of Italian politics. But when she did begin to play her part, she brought to it all the resources of wealth and experience which her long-continued eastern policy had earned for her. Partly defensive, to check the inordinate ambitions of Milan, but also aggressive, to provide herself with more and more room for expansion on the main-

land, Venice stretched herself southward from Padua to Ferrara, and along the Adriatic coast until she came into contact at once with Florence and with the Church.

The peculiar character of the papal sovereignty over a wide range of territory both east and west of the Apennines gave scope for a great variety of semi-independent lordships. Especially was this the case during the long residence of the sovereign popes in France. Yet even here the universal tendency toward concentration of power was making itself felt. Between the years 1353 and 1360 occurred that extraordinary military and civil reconstruction of the papal state by the Spaniard, Cardinal Albornoz, which remained as the basis of the papal civil constitution for more than four hundred years. The lands of the Church were brought directly under the papal administration and parcelled out among a horde of hungry clerical *rectores*, mostly Frenchmen, responsible only to the absent and fatally indifferent Vicar of Christ. The way was thus paved for a return of the papacy to Rome, with a reasonable prospect of keeping its hold upon these local sources of its wealth and consequently of its influence as one among the powers of Italy.

So, finally, we come to Florence. Traditionally the city of the Arno was the head and front of all that called itself "Guelph" as opposed to whatever could be classified as "Ghibelline." But by the time of Salutati these terms had pretty well lost their original significance. In the midst of the new alignments of districts and of parties, no one could predict with any certainty where any one of the Italian powers might stand upon any given issue. The Empire, as an active force in Italian politics, no longer counted, but its heritage was still to be reckoned with. Imperialism, very much in the sense in which we use the word to-day, had come to mean the policy of the

greater states to bring the lesser under their control, always with the possibility that some one of the larger — Milan or Naples, for example — might impose itself upon all the rest.

It is in this sense that we may fairly classify Florence, even as late as 1375, as the chief anti-imperialistic, or, if we must have the word, "Guelphic" influence. Her own "imperialism" limited itself to securing certain military and economic advantages, as, for instance, the control of Pisa and Lucca and of the fortress towns along the slope of the Apennines. The hegemony toward which Florence aspired was a leadership in the things of the spirit rather than in political or territorial expansion. It is this trait that gives the keynote of the Florentine foreign policy during the whole period of Coluccio's administration. To check in every way the advance of Milanese imperialism, by diplomacy if possible, if not by force — that is the thread that winds in and out through the tangled web of intrigue and military adventure at whose very centre stood for a full generation this gentle scholar, literary expert, business manager, keen observer of men and things, clever in adjusting himself to an ever-shifting environment, yet holding steadily to his guiding principle of loyalty to the people he had chosen to serve.

There is no better illustration of the complexities we have here indicated than the changed relations of Florence with the papal government. The label "Guelph" had always included with its several other meanings that of especial loyalty to the Papacy in its age-long struggle against German imperialism in Italy of the Hohenstaufen type. Florence, as the chief representative of Guelphism, had kept its character of devoted daughter of Rome and faithful ally of *la Chiesa* as a political power. Now, however, at the very beginning of Salutati's

chancellorship and the end of the papacy of Gregory XI, we find a complete change of front. The scandalous administration of the "wolf-shepherds" in the papal states had roused furious resentment within, and had called forth the active sympathy of neighboring states, especially of Florence. The result was open warfare between *la Chiesa* and the Republic, waged by the Florentines with the carnal weapons of hired mercenaries and by Rome with the more subtle artillery of excommunication, interdict, boycott, and diplomacy.

The death of Gregory XI in 1378 and the consequent outbreak of the Great Schism were reflected in Florence by internal dissensions of an unusually acute character. The clash of social classes, a standing incident of Florentine politics, culminated in the short-lived revolution of the "Ciompi," an untranslatable word which we may not unfairly render by "Bolshevist." It was a demonstration of the lowest order of laborers against the well-to-do classes, with the avowed purpose of establishing a government of the proletariat. It was accompanied by wholesale slaughter and destruction of property, and enforced its well-thought-out "constitution" by means of an organized Terror. That Florence was able to weather this storm and work its way out to a better-balanced relation of parties was doubtless owing to its admirable permanent system of bureaucratic administration. Through all the bewildering changes of the executive bodies, the beloved commonwealth was safely steered along the lines marked out by its fundamental constitution. This was the work of the regular groups of notaries, who had to give legal form to the constantly renewed reform propositions of the successively dominant parties.

Of this bureaucracy Salutati was the central figure. We know little of his personal activities during the times of

greatest internal struggle. Certainly he was not, in any sense of the word, a party leader. His professional duty obliged him to serve with equal fidelity whichever faction was for the moment in possession of the lawmaking power, but there was always room for the exercise of those qualities of good judgment and discretion which all the estimates of Salutati ascribe to him. One dramatic incident out of the very thick of the Ciompi troubles of 1378 illustrates this point. A gang of turbulent "reformers" had occupied the Piazza of the Signoria, and had set up their own lawmaking machinery with the help of a notary and a scribe haled in for the occasion. The poor scribe was made to write down one crude proposition after another, all subversive of the established order; but the notary, Messer Viviano, Salutati's coadjutor, succeeded in showing the crowd that their laws would be of no effect if passed while the Council was not in session. If they would only go home quietly, he would attend to all the necessary formalities. Such a postponement was enough to allow for the inevitable shift in the popular breeze and to bring matters back toward the normal.

The lesson of the Ciompi tumults, covering the first five years of Salutati's administration, could not be lost upon a mind so eminently conservative as his, a mind occupied also with the continual study of the heroic past. He could not fail to be impressed with the importance of having at the head of public affairs not only a responsible magistracy, but some responsible individual who should not be hampered by the shortness of his term of office or by the necessities of party rivalry. Better than most observers he could see, from his point of vantage as a permanent official, that, if such a unified direction of affairs were not provided legally, it would certainly be created by some extra-legal process. To put it plainly, he could

not fail to see that "boss rule" in one form or another was coming in to supply the deficiencies of the Florentine democratic constitution of 1293.

The most serious menace of the Ciompi had been, not that Florence might be governed by its worst elements, but that ambitious demagogues might exploit the natural restlessness and incapacity of those elements for their own ends. It is not without significance that we discern throughout this period of confusion the busy figure of Salvestro dei Medici already beginning to lay the foundations of the power that was gradually to undermine the liberties of Florence. After the death of Salvestro in 1388, his cousin Vieri became the head of the Medici family. The picture which Machiavelli, writing, of course, under Medicean patronage, gives of the situation in 1393, when class conflicts quite similar to those of the Ciompi were again threatening, is instructive. The excited citizens formed two mobs, one of which gathered in the Piazza and the other went to the house of Vieri dei Medici and begged him

> to take control of the state and free them from the tyranny of those citizens who were ruining both good men and the common welfare. All who have left us any record of those times are agreed that, if Vieri had been more ambitious than patriotic [*buono*], he might without difficulty have made himself lord [*principe*] of the city. For the grave abuses which, rightly or wrongly, had been suffered by the Guilds and their supporters had so kindled their rage for vengeance that nothing but a leader was lacking to satisfy them.[1]

Vieri's cousin, Antonio dei Medici, tried to persuade him to take the headship of the state; but the prudent leader replied: "When you were my enemy your threats

1. *Storie Fiorentine*, lib. iii, cap. 25.

could not frighten me, and now that you are my friend your advice shall not harm me." He went straight to the Signoria, put himself in their power, and by his wise counsel succeeded at once in calming the violence of his followers and in restoring the authority of the established government. The hour of the Medicean *tyrannis* had not yet struck.

Such glimpses as these show us how near the commonwealth of Florence was in these trying years to that calamity which to the typical Florentine was the worst of all evils, the *governo d'un solo*. Salutati, the practical man, must have felt it coming and, however much he may have disapproved, in theory, of every form of tyranny, he could not fail to appreciate the handicap fastened upon the community by its lack of a single directing will and its passionate jealousy of every appearance of individual leadership.

Professor Marzi, in his very careful estimate of Salutati's character, cannot conceal a strong suspicion that his long tenure of the Chancellor's office was at least partly due to his pliancy in yielding to the pressure of whichever element was for the time in control of affairs. He always eulogizes the dominant personality. Writing in the midst of the Ciompi horrors, while the city was in the hands of its most dangerous faction, he says: [1]

I am aware that among outsiders there are reports of great disorders, that some are saying that this city is ravaged by fire, sacked for plunder, and disgraced by murder. And no wonder! Rumor has wings. She is a wordy liar. Informers run about exaggerating everything, good and bad. . . . But I, having been an eye-witness of these things, know that some houses were fired, but very few; that robbery was committed,

1. Novati, i, p. 289.

but on a small scale; that there have been murders, but only a few, in fact, hardly any. Florence is not in ashes, is not reeking with blood, is not suffering from plunder. Her houses, her lofty palaces, her wealth, her whole substance are practically intact. . . . What has happened has been rather a medicine than a destruction. The whole fight was one for political power, not for plunder. The rioters were not treated with indulgence, but were put down.

As to the reaction of the political overturn upon Salutati himself, he goes on to say:

I am well, and so are all my family. I have suffered no diminution of income or position, but rather an increase. I have fallen into the hands of the kindest men whom this movement has brought out, the men who, it seems to me, were pointed out by the finger of divine Providence to support the tottering state by the firmness of their compact, by the power of their foresight, and by their indulgent clemency. I might say much on this point, but I am silent, lest I might seem to be flattering those who are in power; yet I will say this, that those men have come to the surface and been raised to the government of the Republic who were needed for the security of all.

Here appears to be an obvious reference to the party of Salvestro dei Medici, which had done what it could to check the worst excesses of the popular faction while at the same time showing an active sympathy with their political aspirations. It would lead us too far afield if we were to follow out the steps by which the *tyrannis* of the Medici family was finally established; but it may be worth our while to notice briefly some analogies between the political conditions of Italy in the last years of Salutati's service and those of the present moment.

We have, it is to be hoped, in some measure answered the questions proposed at the beginning of this survey:

why should a man of Salutati's type have thought it important, toward the close of a long life, to put into literary form his views as to the nature of despotic government, and why should he have shown so much consideration for a kind of rule which he himself characterizes as the worst plague of human society? The fact was that he found himself in the midst of a social evolution which was carrying Italy with resistless force toward a reconstruction of her political ideals. It was no longer a question of theories, but of hard and insistent facts. The democratic doctrines of the thirteenth and early fourteenth centuries were giving way before the practical necessities of a new time. Political problems of an acutely imperative sort were pressing upon all the Italian communities, large and small, and the one thing common to all these problems was that they were coming to be too much for the slow-working machinery of democracy.

One after another the Italian states were falling under the control of powerful families, and out of these families were emerging at critical moments specially competent individuals, who, by one or another device, succeeded in gathering up the reins of government into their hands. Ambition for power on the one hand, and, on the other, a slackening of that continual jealousy of personal rule which for generations had been the distinguishing mark of the Italian city-states, were evident on every side. That eternal vigilance which always and everywhere is the heavy price of liberty had become too burdensome for the over-prosperous, over-cultivated masses of the Italian bourgeoisie. It was cheaper to pay the cost of an easy, or even of a harsh and cruel, despotism than to keep up the fight for what was coming to seem a futile abstraction. To use our modern terminology: it paid better to slip in a few thousands to the party chest, than to find unex-

plained wrenches in the gear of one's business or to suffer the obloquies of a social boycott.

Never, probably, was the world in a better position to understand the true nature of the Italian *tyrannis* than at the present time. The analogies we are studying become patent to everyone who reads the history of the remoter and the nearer past beneath the surface. Italy before the war, in common with the other European states, had spent a long century in working herself free from the trammels of a political system under which all social influence proceeded from a central authority. She had come out through bloody travail into an almost unlimited freedom. She had indeed preserved the forms of monarchy, but it was a monarchy that expressly acknowledged its dependence upon the will of the Italian people. She had broken the grip of a senseless intellectual tyranny which, under the cloak of religion, had sought to stifle the search for truth and to crush the freedom of the human spirit.

Would this newly found liberty be able to stand the strain of those subversive influences that are sure to mask themselves behind the shelter of her sacred name? The test came in the awful trial of the World War. For a time it seemed as if the forces of disorder would be able to block every effort of organized government to realize the age-long aspirations of Italian patriotism for what it believed — rightly or wrongly — to be its immemorial right. The attempt failed. Defeat upon the battlefield served only to stimulate to renewed energy the latent resources of courage and capacity, and the crisis was passed.

But then came a test as much more severe as the motives to action were less dramatic and — apparently — less pressing. With the release from the pressure of war came a natural relapse into a state of comparative indifference toward the essentials of a permanent peace. The

elements of discontent, inspired by the fatal example of Russia, rushed into the vacuum created by the sudden withdrawal of organized industry and the complete ineptitude of all surviving governmental agencies. The mechanisms of government went on. Parliamentary elections were held; the supposed representatives of the people assembled and began anew the ancient warfare of parties; ministries were formed and dissolved. The executive power in the hands of a well-meaning but insignificant king put forth feeble protests and exhortations. Yet none of these legitimate agencies could avail to check the furious onslaught of the enemies of all traditional social order. Communism under its many disguises, or even without disguise, seized upon the mechanisms of production, terrorized its opponents, and threatened to gain absolute control of the state.

Then came the inevitable reaction. That same intense national consciousness which, from the days of Dante on, had persisted through all the shiftings of partisan politics, once more reasserted itself. Whatever theories must be sacrificed, one thing was certain: Italy must not perish! That was an end toward which all means and all methods, however doubtful in themselves, must be directed. The spirit of recovery expressed itself in a word that appealed with magic force to what was "best" in the Italian people, and "Fascismo" found its spokesman in a man who had sounded the depths of socialistic experiment and drawn back from the edge of the abyss before it was too late. Mussolini was not a conservative attacking anarchy from above or from without; he was a radical reformer, but not a social revolutionist. He saw that a new order of things was imperative; but it was to be order, not disorder. The existing mechanisms of government had shown their incapacity to solve the prob-

lem. They must be, not destroyed, but for the moment pushed aside and replaced by a unified administration that would work.

After all, it was the old Italian method once more. Just as we have seen the solid elements of Florentine society holding out through and under all varieties of political confusion, so now for all Italy there was to be a grand house-cleaning, and the fagots of the ancient lictors were to be the broom. The method was, if you please, all wrong. Mussolini was a tyrant of the first class *ex defectu tituli*. Would he put himself also into the second class by becoming a tyrant *ex parte exercitii?* That was the supreme test and, up to the present writing,[1] it must be said that he has met it with unexpected moderation.

The temptation to extreme action was acute. Thrones enough had been toppled over to make the sport of king-baiting not only popular but, comparatively speaking, safe. "Responsible" government by departmental ministers had been widely discredited, and nowhere more thoroughly so than in Italy. The idea of getting on without so rickety a piece of machinery lay very near to Mussolini's line of thought. Parliamentarism — notably in Italy — had become a synonym for empty declamation and unprofitable, even if honest, discussion. Why not wipe it out at once and make the laws — if laws there were to be — in some more "direct" and efficient way? None of these tempting baits was caught by this latest specimen of the Italian "tyrant." True, his first "gesture" left the world guessing as to what sort of cataclysm was coming next. The display of a half million or so uniformed, drilled, and determined youths, and the pertinent inquiry addressed to the nominal rulers of Italy: "What are you going to do about it?" was a staggering

1. March, 1925.

challenge to their patriotism and their capacity for sacrifice. Something must give way if the foundations of the state were to be saved; and it is to the everlasting honor of all directly concerned that sacrifices of shadows were readily accepted in order that the substance of order and some measure of social justice might be preserved.

That Mussolini may properly be included in the long line of Italian "tyrants" is still further shown by the manner of his adjustment to the existing forms of government. So far at least no important changes in those forms have been attempted. This new *tyrannis* has not attempted to put itself in the place of any of the established governmental agencies. It has simply reorganized them according to its own ideas of what are necessary reforms. It was open to Mussolini to make himself a political "boss" pulling the wires, but not himself technically responsible to the people for the conduct of public affairs. For such action he would have had abundant historical precedent; but, instead of this, he allowed himself to be made responsible prime minister by royal appointment, the head of a cabinet of his own selection. By this prudent policy he has committed himself to the Italian people as a conserver of those political traditions embodied in their national constitution. He has not set himself above the institutions on which the Sardinian monarchy is based; he has become a part of them. It is no fanciful suggestion that, if the Italian commune of Salutati's day had been organized on the principle of responsible ministerial government, the well-meaning tyrant of the fourteenth or fifteenth century would have done precisely what his lineal successor has done now — would have substituted himself for the existing premier and surrounded himself with ministers who would be in harmony with his policies.

One more analogy. The mediaeval tyrant could accomplish his aim of personal control only with the support of one or the other of the two great parties into which the Italian commune of that day inevitably divided. If he was a Guelph, he sought to gather to his banner all those elements of the population which were naturally inclined to the defence of Italian nationalism. If he was a Ghibelline, he relied upon the opposite sentiment of Roman imperialism — world-politics on the grand scale, with Italy only a pawn in the game. I am not forgetting that these larger antagonisms were hopelessly entangled with lesser local issues; but it remains amazingly true that through all these local complications the issue of Italian nationalism as against all other loyalties came to the surface at every crisis. And so it has been in the present emergency. "Fascism" is only another name for nationalism as against communism, the wilder forms of socialism, and also against the reactionary forces of monarchism and clericalism. The enemies are different from those who threatened the liberties of Salutati's fellow citizens, but the menace is the same, and the appeal to the spirit of Italian loyalty is the same.

This explanation of Mussolini may help us to understand Salutati's defence of Cæsar and his condemnation of Cæsar's self-constituted judges and executioners. He saw the empire of Rome torn, like his beloved Italy, by furious party warfare and brought back to comparative unity and peace by the successful if unconstitutional usurpation of one man, and he had come to believe, after a lifetime of intimate knowledge of affairs, that the salvation of his country lay along the same road.

But now, supposing the tyrannical character of a given ruler to be demonstrated, what should or could be done

with him? Obviously there must be somewhere an authority capable of declaring his guilt and finding the remedy, a tribunal and an executive power. Where was this? Here comes in a consideration not specially emphasized by Salutati, for the reason, perhaps, that it was so well understood by everyone who would be likely to read his argument. That is the question as to the ultimate basis of sovereignty. His predecessors in the field of political theory, notably the famous jurist Bartolus of Sassoferrato (died 1357), had laid great stress upon the distinction between communities (*civitates*) which acknowledge a superior and those which base their institutions upon their own independent constitutional right. Bartolus, steeped as he was in the old Roman imperial tradition, conceived of all existing law as derived from Roman precedents. For him the "Empire" was still the Roman Empire. For him the Italian sovereignties were dependent on an imperial overlordship, except in so far as they had been released from it by definite grant or by *de facto* acquiescence in the republican or democratic constitutions that had replaced it. A similar relation existed between the multitude of feudal overlords and the communities dependent upon them. This same distinction appears again, if with less emphasis, in Salutati, and may help us to understand some of the more obscure processes of his argument.

On general principles a ruler who has gained possession of the government in a community which acknowledges a superior must be considered as a tyrant, unless or until he receives the sanction of that superior. Even though the community itself makes no resistance, his title is defective. He is a tyrant *ex defectu tituli*. If he rules *superbe*, that is, unjustly or with violence, and for his own ends rather than for the welfare of the community, — in other

words "tyrannically," — then he is, in addition, a tyrant *exercitio* or *ex parte exercitii*. If, on the other hand, he rules justly and wisely according to law and for the good of the community, then the *defectus tituli* may be so far overcome that his rule may be described as legitimate.

The right of the community to resist a tyrant of either class is expressly reserved. The critical question is: at what point shall this right be exercised? In the case of a usurper it is obvious that resistance should be made at the moment of usurpation; but failure to exercise the right at the proper time does not abrogate it. If the rule is bad, resistance may be made at any time. If it is good, the continuous acquiescence of the people may constitute a basis of legitimacy.

In spite of all legal verbiage it is thus clear that, after all, the consent of the governed underlies the problem of tyranny. If the people have not the virtue to repel the usurper while his title is plainly defective, that is their own fault, and they must take the consequences. If they allow him to go on with his rule, they give him their implied sanction — yet always with the reservation that his rule be just. If it is not, then they may make use of this reservation at any time to deprive him of it.

But this right of protection belongs to the community as a whole acting through its constitutional organs. If the community fails to avail itself of its right, may an individual or a group of individuals take upon themselves the duty and responsibility of disposing of the tyrant? This leads to the much-disputed question of the right of tyrannicide, hotly discussed by writers upon political theory from Thomas Aquinas down. In order to approach this knotty question with historical fairness, we have to dismiss from our minds at once the natural feeling of horror at the idea of deliberate murder, which belongs to our

modern notion of the value and sanctity of human life. Such feeling was, if not absent, at least far less strong, in the period we are considering. Murder, particularly in Italy, had attained almost to the dignity of one of the fine arts. It was looked upon as the swift and effective method for removing an obnoxious person who had fortified himself against the slower and more costly processes of the law. The word "assassination" conveys, even to our modern ears, something of the dignity which the more brutal word "murder" seems to lack. We do not need, therefore, to dwell upon this aspect of the question. We simply have to assume that under some circumstances the murder of a tyrant would be approved by most writers on the subject. It was not so much the moral as it was the legal aspects of tyrannicide that interested them. The question was: under what circumstances could tyrannicide be justified?

The earliest comprehensive discussion of the subject in the European Middle Ages is by the Englishman John of Salisbury (1110?–1180) in his treatise called "Policraticus, sive de nugis curialium et vestigiis philosophorum." The purpose of this portentously long and elaborate work, decorated with an enormous display of learning, is to show the true principles of civil government. The Prince is the divinely appointed servant of the people. His authority over them is absolute, but he is bound to exercise it in accordance with the law. It is not that he is subject to the law in any constitutional sense, but that respect for law is a part of his duty toward God, from whom his power is derived. The people owe him respect and obedience, but if he violates his obligations to them they have the right to rid themselves of him by assassination. John of Salisbury illustrates his point by copious citations from history, both secular and biblical, showing the fate of

tyrants. His own declarations on the subject are brief and infrequent, so that our Salutati is justified in his comment that John has not proved that tyrannicide is lawful, but only that it has frequently occurred. It will be observed that, while John of Salisbury admits that priests may act tyrannically, he insists that they may not be put out of the way, because of their sacred character.

Similar considerations appear a century later in Thomas Aquinas's "De regimine principum" (I, 6), with, however, certain shades of difference. The tyrant is as abhorrent to him as to John, because he represents the very opposite of his ideal of the Christian prince. His title is faulty, or his administration is iniquitous, or both these may happen; but even so, it may be better to bear with him, bad as he is, rather than to incur the risks of public disturbance which may bring still worse evils. If, however, he becomes intolerable, he may be "removed," but this should be done by lawful procedure. As to what such procedure ought to be, Aquinas is not clear. Obviously we are brought back to the distinction we have already noted between states (*civitates*) acknowledging a superior and those claiming the right of complete self-government. The only conceivable form of lawful process against the tyrant would be along one or the other of these lines: either by order of the superior, or by the action of the community itself through its regular organs of expression. In either case, the death of the tyrant could not be described as "assassination," and thus the whole problem is removed from the sphere of morals and brought within the scope of purely politico-legal reflection. The moral question would then, according to Aquinas, remain in the forum of religious-ethical judgment, and assassination, in the accepted meaning of the word, would be only an especially atrocious form of murder.

Especially important for the historical as well as the juristic background of Salutati is the hot discussion of the right of tyrannicide brought out by the murder of Louis of Orleans by agents of John, Duke of Burgundy (November 23, 1407). Louis was the brother of the mad king Charles VI, and head of the Orleans faction, which was in practical control of the French government. John of Burgundy, his chief rival, took this foul means to rid himself of a competitor whom he could not overcome by lawful methods. He frankly acknowledged the deed, defending himself before his peers on the ground that he had rid the country of a detestable tyrant. His argument, delivered by his attorney, Jean Petit, has become the most famous document in the whole history of the discussion. At that Great Assize of the European states, the Council of Constance (1414–1418), it was brought forward by the French representatives, especially by the learned Jean Gerson, who moved heaven and earth to secure the condemnation of Jean Petit. The agents of Burgundy, on the other hand, were naturally insistent that the judgment of a Parisian tribunal favorable to Petit should not be reversed. The question was thus taken out of the spheres of both moral and juristic authority, and brought within the field of purely political conflict. Both sides, however, were obliged to cover their political intrigues by arguments drawn from moral and juristic sources; so that we find here summaries of opinion on the whole broad question of tyrannicide as it stood in the first quarter of the fifteenth century.

These opinions not only touch upon the immediate problem of the right or wrong of the act itself, but include also definitions of tyranny which help us to understand the actual developments of political institutions everywhere in Europe, and especially in Italy. France

and England were well on the way toward the monarchical absolutisms of Louis XI and the early Tudor kings. Throughout Germany local powers, both lay and clerical, were utilizing the revived study of the Roman civil law to strengthen their claims to a sovereignty limited, it is true, in space but practically unlimited in degree. The control of the Empire over its component parts was reduced to the lowest possible terms.

All this is, of course, after the death of Salutati (1406). It is of importance to us as showing how strong was the drift, during the later years of his life, toward the condition of things reflected in his "De Tyranno," written in 1400. The impossibility of securing decisive action on this point at Constance, in an assembly dominated, on the whole, by learned churchmen, is the most impressive illustration of the cloudiness of the European mind as to the basis of sovereignty and the right of peoples to control the actions of their rulers. On the 6th of July, 1415, the same day on which the Council demonstrated its orthodoxy by ordering the execution of John Hus, it passed in plenary session a general condemnation of the right of tyrannicide; but it could not be persuaded to condemn the specific action of Jean Petit. The nearest approach to this was the report of a commission (January 15, 1416) which reversed the favorable judgment of the Parisian special tribunal, but on technical grounds having little to do with the main issue. All the eloquence of Gerson and all the pressure of the French government could not move the Council further. The doctrine of political expediency expressed by Jean Petit was beginning the insidious progress which was to end in the full-blown Machiavellianism of the following century.

COLUCCIO SALUTATI, "DE TYRANNO"

Coluccio, son of Piero, Chancellor of Florence, to Master Antonio of Aquila, student in Arts at Padua, Greeting!

A Treatise on Tyrants, with an Introduction

Since you ask of me a thing at once difficult to answer and yet worth knowing, I cannot refuse a reply, my learned friend — for such your letter shows you to be. It has always seemed to me fair to repay esteem with esteem and, if one can, to give a suitable reply to anyone who makes a reasonable inquiry. Indeed the very bond of human society, seeing that man is made for the sake of his fellow man and that, according to the divine ordinance it is not good for man to be alone as he was created, requires not merely that we show favor to those who ask it, but that, as far as we can, we anticipate those who do not ask. And this not only in things that have reference to our final end, to which we are bound by our common faith, but also in those which mark the good citizen or, more broadly, the good man. The race of men is bound together by religious faith, by common citizenship and by nature. The first has to do with our final salvation; the second with the civil order; the third with human relations and the perfecting of mankind. Since, then, your inquiry touches directly or indirectly upon each one of these I cannot and ought not to decline to answer it.

But first I must refer to the beginning of your letter, in which you compliment me far too highly. For, if we owe a reply to one who asks for it, so do we to one who gives us the material for a reply. You assume many fine things of me — I hardly know whether to say, out of

politeness or out of ignorance. You speak too confidently of things that have come to you by common report, as if you had carefully investigated them. You praise me too much, nay, more than too much. You say that as a leader in each and every art worthy of the liberally educated man I am superabundantly equipped. You declare that I have won the praise of all men by singular talent, culture and refinement. To use your own words: besides my superior literary accomplishment I am a man devoted to giving pleasure to everyone; I spare myself no labor to give satisfaction to others, and on this you rest your hopes of a reply.

You say that I work for all, and that it makes little difference to me what class of men I address, provided only that I can be of service. You refer to certain letters of mine written to various scholars and containing things which they could not have learned from others or by themselves. You bring forward these things to give yourself greater confidence in the request you have to make.

I am truly sorry for your mistake in these matters; for I do feel that you have deceived yourself, taking "with Gallic lightness," as the saying is, things as proven which are only matters of hearsay, and praising me for what after all, even if it were in me, is not really my own. For what have I that has not been given to me, and *gratis* at that, not for my own merit, but by the grace of the bountiful Giver? I would rather have you give praise to Him who is the giver and the artificer, rather than to me the receiver and the mere tool of the craftsman's hand. Whatever I am, subject or accident, is His, whose work I am; to say it is mine would be the height of folly; to take praise for it would be unpardonable conceit. Wherefore I beg you henceforth to have done with this sort of thing and not to flatter my all too ready ear with such

blandishments, lest I forget that what you praise is not my own but His who gave it.

Whoever says he has learned anything by his own zeal or diligence or reflection declares himself to be the primal cause, and what folly that is, you, a student in Arts, can judge for yourself. You shall never lead me into any such foolishness. I am the tool of the Master, not the efficient cause of the work or of the action. And yet, if we think of the work in so far as it depends upon our own will, we truly coöperate with God, and from this comes all our merit in the work, not as a *reason* for recompense, but as a *measure* of it. For, in so far as we fail in the perfection of an action, we depart from the eternal law, and failing to do as we ought we cripple the work and thus incur the penalty of that law.

Now then, praise me if you can, and pretend that is mine which you now see cannot come from me! If I have learning — or rather if you believe I have it, congratulate me that God has given it to me and pray that His grace may remain, lest if it were taken away my ignorance should be exposed. When you accuse many of selfishness, for the best of reasons, because they are unwilling to give instruction or, if they do give it address themselves only to the fortunate of this world neglecting the rest, you do well. They are indeed most worthy of reproof who, knowing, if they are not fools, that they have freely received the gift of God, try to bring under their own private control this favor of the universal cause, and what is worse, boast that they have gained by their own labor what they could never keep except by God's favor and what they see is denied to others who work far harder than they do.

But let them remain in their error, and let us follow the precept of the Mediator between God and man:

"Freely ye have received; freely give!" When I see the lord of all things giving such gifts to men who are of themselves nothing, I could never wish to overlook any one in repayment for that talent which is mine. If majesty supreme has deigned to bestow some gift upon my insignificance, can I dare think it was given me to keep to myself and not rather through me to be shared with others? Or shall I look down upon my neighbor on account of his humble station or his modest fortune, when I consider how God has not scorned me, low as I am and so far below His supreme excellence? I will not disdain you or anyone, even were he as unknown to me as you are, who may desire to learn what I know, nor will I begrudge to anyone what has been given to me. If I shall find out the truth of the matter about which you inquire, you may rejoice with me; but if I shall disappoint your expectations ascribe it in part to my ignorance, but partly also to yourself for having greater hopes of me than experience shall have shown to be warranted. Enough of this.

[This apology, conventional as it is, is perfectly characteristic of the early Renaissance attitude toward all speculative subjects. Our author is proposing to express various opinions which might seem almost "radical" to the classes of Florentine society with which he desired to stand well and upon which he was dependent for the continuance of his honorable and profitable office. He anticipates possible criticism by disclaiming responsibility for his utterances. He is writing only to oblige a youthful inquirer, and indeed it is hardly he himself at all who speaks but the divine grace which has chosen him for its instrument.]

Now, coming to your inquiry: I will first give a definition of a tyrant, both as to the word and the thing

itself, so that we may not be floating about in misunderstandings, and I will add also how many kinds of tyrants there are. In the second place, we will discuss whether it is lawful to kill a tyrant for any definable reason. Third, we will discourse upon the rule of Cæsar and whether he can and ought to be considered a tyrant. Fourth, whether he was rightly or wrongly slain by his assailants, and finally, we shall prove that Dante, my divinely gifted fellow citizen, was right in placing these assailants in his lowest hell. When all this has been done I think you and all who raise similar questions will be satisfied. As to your final query, whether Antenor and Æneas were traitors to their country, since this does not involve an argument, it will be enough if I make a note of what I could find about this in the ancient writers, and this I will try to do at the close of my treatise.

CHAPTER I

What a Tyrant is, and why he is so called

The word "tyrant" is of Greek origin and has the same meaning among both the Greeks and ourselves, in ancient times and now. For the word "tyros" is the same as "brave." Now, from the beginning, as Trogus testifies, every community was governed by kings, and these, as Justinus says, were raised to power, not through any arts of popularity, but by the well considered judgment of good citizens. Their special function was to defend the frontiers of the realm, to rule justly and to settle quarrels, if the innocence of the time should produce such, in accordance with that sense of equity which is implanted by nature in the human mind; and since these duties required bravery of mind and body, the most ancient Greeks and the primitive Italians called their kings "tyrants." From

his function as ruler the king is called in Greek Basileus, for the verb *basileuo* in Greek is the same as *regno* in Latin. But then, as evil increased and kings began to rule oppressively [*superbe*] [1] the name "tyrant" was confined to those who abused their power "tyrannically" [*per insolentiam imperii*]. On this point we have the witness of Vergil, greatest of poets. He says:

Gens, bello preclara jugis insedit Etruscis
Hanc multos florentem annos rex deinde superbo
Imperio et sevis tenuit Mecentius armis

Æn. VIII, 480–482.

and he adds, touching upon the idea of *superbia*

Quid memorem infandas cedes? quid facta tyranni?

Æn. VIII, 483.

You notice that the person whom he first called "a haughty . . . king" is here called "tyrant," and previously he had said of his hero Æneas, whom he everywhere describes as loyal [*pius*] and as a king:

Pars mihi pacis erit dextram tetigisse tyranni

Æn. VII, 266.

Thus much I have said as to the meaning of the word in order to dispose of the ignorant fancies of certain persons.

1. The word *superbus* with its variations, *superbia* and *superbe* has been the most difficult one to render into a suitable English equivalent. Its original meaning of "proud," "haughty" seldom meets the precise idea of the author. It shades off into a great variety of grades and distinctions, most of which are covered by our word "tyrannical," yet it is obviously impossible to translate definitions of "tyranny" by the word we are trying to define. The root idea of a person whose actions are governed by a sense of superiority over others and not by a desire to promote their welfare is the most helpful in determining in each case the precise meaning. Not infrequently it has seemed best simply to repeat the Latin word without any attempt at translation.

Now, to come to the definition of a tyrant, I propose a text from St. Gregory, who, in the twelfth book of his commentary upon Job, expounding these words: "and the number of the years of his tyranny is uncertain" [1] (Job, xv, 20) defines with divine accuracy not only the tyrant but also the various types of tyrant. He says: "Properly speaking a tyrant is one who rules a state without the forms of law [*non jure*], and then adds "but everyone who rules *superbe* [? autocratically] exercises a tyranny of his own sort. Sometimes a person may practice this in a state through an office which he has received, another in a province, another in a city, another in his own house, and another through concealed malignity, within his own heart. God does not ask how much evil a man does, but how much he would like to do. If outward power be lacking he is a tyrant at heart whose inner viciousness governs him; for, although he cannot injure his neighbors outwardly he inwardly desires to have the power to injure them." So far Gregory.

To dispose first of what he says as to the kinds of tyrants: In his most important chapter the tyrant appears under two forms, one in character, the other in action. If a man lacks power, and practices tyranny in his intentions from hidden baseness of quality, he presents the character but not the act. He is, properly speaking, a tyrant within himself, and this defect in the sight of God who trieth the hearts and reins is a serious one; for God considers not only what one is able to do, but still more what one desires to do.

As to this defect in man we say nothing at present. It may, however, properly be considered under three forms according to the types of government, the royal, the con-

1. Revised version: "even the number of years that are laid up for the oppressor."

stitutional and the despotic. If one governs according to the standards of his own prudence and the dictates of his own will, freely and without laws or the limitations of any statutes or of any man, solely for the good of his subjects, this rule is a royal one. If one governs with an authority limited by laws which it is a crime to break, this is called a constitutional government. But that kind of government which is exercised over slaves and beasts, of which the aim is the preservation of property and the welfare of its owner, this the Greeks called a despotic rule. Its ultimate purpose is similar to that of the housefather.

Now in these several forms of government, the autocratic [*superbus*] ruler becomes a tyrant, and that is the meaning of those words of Gregory above quoted, if we consider them carefully. For he first describes the legitimate royal power in a state, then the constitutional in a province or a city and then the despotic in one's own house, each as being corrupted by *superbia*.

The government of a household is not opposed to a royal or a constitutional or a despotic one, but embraces all three. The father of a family governs his son royally through his affection for him, his wife constitutionally according to principles of law, but his slaves despotically as being his own property. The tyrant, however, although he is contrasted with all these, since it is his character to destroy laws, to carry himself haughtily toward his subjects and to consider his own welfare rather than theirs, yet comes nearer to the despotic government of a household as regards his main object, namely, to pursue what is specially profitable to himself and to increase his own wealth. As regards the action of his own will, on the other hand, he approaches more nearly a royal government.

The special quality of the tyrant is, that he does not rule according to law; and this may happen in either one of two ways: He may have seized upon a civil government which was not his own, or he may rule unjustly or, speaking more broadly, may pay no attention to the principles of right. Hear what a tyrant says of himself in the words of Seneca: "I will wield the sceptre which I have captured with the hand of a conqueror and will carry on everything without fear of the laws, *etc.!*" The words "captured sceptre" show the unlawfulness of his title, and the words "carry on everything without fear of the laws" show that corruption in administration which Gregory says is the mark of the tyrant: "one who governs without the law."

We conclude, therefore, that a tyrant is either one who usurps a government, having no legal title for his rule, or one who governs *superbe* or rules unjustly or does not observe law or equity; just as, on the other hand, he is a lawful prince upon whom the right to govern is conferred, who administers justice and maintains the laws.

CHAPTER II

Whether it is Lawful to Kill a Tyrant

Now, to begin with the question of usurpers: — Who will deny that the people as a whole, or a majority of the citizens, or a part of the population of a town, — nay, even a single citizen may lawfully resist anyone who attacks the liberty of the people or usurps the government? For if, as those greatest of rulers, the emperors Diocletian and Maximian, writing to Theodorus, decreed, it is right for a lawful possessor in defence of property to which he has a faultless title to repel force by force *cum inculpatae tutelae moderatione;* and if, as Ulpian, the ablest of jurists, says, one may forcibly resist an armed assailant; and if

according to Cassius it is a right of nature to oppose force with force, who can deny that any person whosoever may lawfully resist one who usurps the government of a city, a province or a kingdom?

It is, therefore, lawful to repel by force the assailant of an individual or of a piece of property and if he persist, to kill him, and shall we not have the right to prevent by force, even to the point of death, one who tries to seize the rule of a city, or kingly power or the government of a republic? Most unfair would the laws be — or rather no laws at all, if that which is permitted to private persons in case of danger or abuse were forbidden for the preservation of the liberty or the life of the community. Or if, as Ulpian bears witness, it is lawful to kill a nocturnal robber who defends himself with a weapon in such a way that the slayer could not have spared him without endangering his own person or property; if Arcadius, Theodosius and Honorius permitted the killing of common thieves and deserters from the army on the ground that the right of public execution for the sake of the peace of the community was permissible to everyone — as they wrote to Hadrian, a praetorian prefect; if Valentinian, Arcadius and Honorius granted to the people of the provinces the right of resistance against citizens or soldiers, so that night raiders in the fields or those who lay in wait on the public roads might be put down by any person with suitable punishment, even with the death they had prepared for others, on the principle that it was better to meet the evil beforehand than to punish it afterward, and that a crime which it would be too late to punish by the judgment of the praetors should [thus] be brought under a decree of the emperor — if, I say, all these things were permitted, who could so unfairly interpret the law or be so opposed to justice or such a determined enemy

of the public weal as to think these same things were not lawful against those who should try to set up a tyranny? — and this so much the more as the public safety is more important than that of individuals.

A proof that this is true is found in the story of Servilius Ahala who murdered Spurius Melius, the richest man of his time, on suspicion of aiming at kingly power. In a time of scarcity at Rome, Melius had brought in grain from Etruria through the hired services of clients and foreigners and had distributed it freely to the people, a most evil precedent. Afterward, when L. Quinctius Cincinnatus was made Dictator, Melius was brought to justice and appealed to the people to rescue him from the Lictor; but Servilius Ahala, without waiting for a judgment, which might have been hindered by popular clamor, slew him on the spot. And this was not reckoned as a crime, but rather as a glorious deed. We have preserved a famous word of Cincinnatus the Dictator, when the murder of Melius was reported to him: "Well done, Servilius! The republic thrown into confusion is now set free!" Then calling an assembly of the people he made proclamation that Melius had been lawfully put to death and, by his authority as Dictator, he declared his goods forfeited to the state.

And why need I mention Publius Scipio Nasica who by his own action put down Tiberius Gracchus, grandson of the elder Africanus through his mother Cornelia? Gracchus had stirred up the people and had plotted to prolong his tribuneship, which he had used for purposes of agitation, into a second term, to the ruin of the state. In the midst of the uproar he raised his hand to his head as if he were seeking a kingly crown. The Consul made only a languid protest, but Scipio, calling upon all who would save the state to follow him, wrapped his toga about his

left arm and, with the help of the chiefs of the nobility, succeeded in crushing Gracchus, who fleeing to the Capitol, was beaten to death with pieces of the benches and thrown unburied into the Tiber. Nor did this murder, though Nasica avoided a trial and punishment by claiming his privilege as an ambassador, lack a most distinguished apologist. The younger Africanus, in the course of his triumph after the capture of Numantia, was asked by Gnaeus Carbo, a defender of the uprising of Gracchus, what he thought of the killing of his relative and replied without hesitation that he thought he had been justly put to death.

Thus it always seemed to the Romans such a serious matter to usurp the government of the Republic that the mere suspicion of this crime deserved the severest punishment. They did not regard as a citizen at all, but rather as a public enemy any man who would set himself above the laws and above the Senate or who was believed to be aiming at kingly power. Upon this suspicion Marcus Manlius, who had once defended the Capitol against the Gauls with consummate bravery, charged with aspiring to a crown because he had used his private property to release debtors and redeem those who were enslaved for debt, was hurled from that same Tarpeian Rock from which he had repelled the Gallic assault. More than this: the Manlian clan determined by a memorable decree that henceforth no member of the family should bear the name of Marcus Manlius.

[The following *excursus* on the personality of Publius Scipio Nasica, while it has no bearing whatever upon Salutati's main argument, is a very interesting illustration of his method of historical criticism. Whatever we may think of his conclusions we cannot fail to recognize

the general soundness of his principles, especially his unwillingness to accept any statement merely on the authority of a famous name. He uses his own mind with a freedom altogether modern, in marked contrast to the blind receptivity of the mediaeval chronicler, and he does not hesitate to make emendations of his own where he thinks they will serve to bring the statements of a classic author more nearly into harmony with common sense.]

But now to return to Gracchus: It seems to me to be decidedly doubtful which Scipio Nasica was the leader in that murder. For if, as Livy tells us, a son of that Gnaeus Scipio who was killed with his brother in Spain, a most honorable youth named Publius Scipio Nasica and declared by the Senate to be *vir optimus*, received the *Mater Deorum* summoned from Pessinus into a kind of adoption, which event took place before the elder Africanus crossed over to Libya in the time of the Second Punic War; and if we remember that fifty years intervened between the Second and Third Punic Wars, and that Carthage was destroyed in the fourth year after that interval, and finally that the Numantian War, after the close of which Tiberius Gracchus was killed, lasted fourteen years, a careful calculation of these periods shows that from the year in which Nasica played the host to the Goddess before the end of the Second Punic War to the close of the Numantian War was a period of sixty-eight years: namely, fifty years between the two Punic Wars, four for the duration of the second of these and fourteen during which the city of Numantia held out against the Roman people; and if now we add to these the time of the adolescence of Scipio Nasica and the years between the coming of the *Mater Deorum* and the end of the Second Punic War you will easily see that at the time when Tiberius Gracchus was put down this Scipio must have

been more than ninety years old. But now, who would dare to say that a man of ninety would, as is recorded, suddenly have thrown his toga about his arm and made himself the leader and chief of young men in the murder of a man in the prime of manhood and backed by a crowd of the most powerful citizens? I am sure that the most violent critic could not force this conclusion, and I am equally sure that everyone would agree that it is strange enough to be readily classed among the improbabilities. Furthermore, if it were true, it would have been specially celebrated among the glories of old age, and it is incredible that so marked an example as this, the like of which could nowhere be found, should have been passed over in silence by all writers, especially by those who were concerned with the collection of all remarkable events.

I find, however, after the distinguished *pontifex* Nasica, another Publius Scipio Nasica. It is he who so closely resembled a certain Serapion, a dealer in cattle for sacrifice, that the tribune Curiatius dubbed him "Serapion" by way of a joke. Now I am fairly convinced that this man was the son of the elder Nasica. Perhaps there were others also whom the loss of records or similarity of names may have left in obscurity. For it is incredible that there can have been but one Nasica, since in that case, if it is true that Publius Scipio Nasica declared war on Jugurtha, king of the Numidians, which event certainly happened A. U. C. 635, while the Second Punic War ended in A. U. C. 541, as Livy, greatest of historians, states, at which time Scipio Nasica, being then at the close of his adolescence, was declared to be *vir optimus*, it would appear that this Nasica had lived one hundred and fifteen years! And, what would be more than a miracle, he would have been ruling the state as Consul at that age! Since these things are not probable, I leave the decision open to all.

If they are pleased with what I have said let them be satisfied. If they agree with Valerius that there was only one Publius Scipio Nasica, let them call him "that most brilliant light of the Roman power, who declared war against Jugurtha, who received with consecrated hands the Idean Mother when she came over from her Phrygian home to the altars of Rome" and all the rest which that author collected in his chapter *de repulsis* in praise and characterization of the one Nasica — or rather annotated after it had been collected by someone else; for he did not carefully investigate every point himself. They may agree with Valerius and defend themselves with the authority of so great a writer; but I beg them to take into account the reckoning of time. If they cannot straighten this out let them rather say: "Valerius wrote thus and so" than say that what he wrote agrees with the truth of history. They ought rather to believe that the text of Valerius is corrupt than that he could fall into such a thoughtless error, a thing which should not happen to a man of such great learning.

While I was looking into these matters I discovered a clear case of error in regard to this same name in the chapter of Valerius *de mutatione morum ac fortunae*. In all the texts that I have examined Gnaeus Cornelius Scipio Nasica is said to have been captured by the Carthaginians at Lipara while commanding the Roman fleet as Consul, whereas we read most plainly in Seneca — called, I know not why, Florus — in Eutropius and in Orosius that not Scipio Nasica but Gn. Cornelius Asina was invited by Hannibal the elder to a conference and then with Punic treachery was made prisoner in the fifth year of the First Punic War. Now, since this is quite certain, I think someone must have changed the word Asina into Nasica, thinking, perhaps, that such an ugly [*de-*

forme] name would be a dishonor in so distinguished a family. If this person had only read in Macrobius, a most faithful recorder of antiquity, how Cornelius, having bought a piece of land in the market and his bondsmen being called upon for the payment, ordered on the spot as much money to be brought on an ass's back as was necessary to pay the debt, and that from that time on the cognomen "Asina" was given to the Cornelian family, not in derision but in admiration for this noble action, he would not have wondered at the name.

Still, you or anyone else may take this as you please. I am not asking anyone to put any more faith in me than he will. I want everyone to choose what seems true or probable to himself; but I am so sure of a corruption in the text that I have stricken out of my copy of Valerius the words *Scipione Nasica* and amended *Asina* as I believe was originally written. If in the chapter *de repulsis* where it reads: "Publius Scipio Nasica, that most brilliant light of the Roman power, who declared war against Jugurtha" we add: "son of him who received the Idean Mother etc.," those two words *filius ejus*, which the error of a scribe may have omitted, clear up our doubts completely.

But let us return to our subject. It has thus, I think, been sufficiently demonstrated, that anyone who sets up a tyranny may lawfully be resisted, not merely by a party of the people, but by an individual, and that such a monster may be put down by force, even to the point of murder. And this not only at the beginning of his tyranny, but afterward, even though time has elapsed in which the forces needed to repel the tyrant may have been collected at his expense. This principle is most learnedly laid down by Ulpian in reference to private

cases. He says: "It is lawful not only to resist in defence of one's property, but, even if one be ejected therefrom, to eject the intruder, not after an interval but on the spot [*ex continenti*]," that is before he can turn to other matters. For Neratius interprets a "continuous action" as one in which some period of time [*mo(vi)mentum naturae*] may intervene. We have it also on the authority of Ulpian that, since it is lawful for a father, if he detects a daughter who is under his *potestas* in adultery in a house inhabited by him or by his son-in-law, to slay her on the spot [*in continenti*], he shall be held to have killed her on the spot even though some hours shall have intervened while she was being pursued and caught. Therefore it must be lawful to rise up against a usurper of civil power, and this not only at the moment of the usurpation but by continuous action and with preparations made, to go against him with armed forces.

But what shall we say if a usurper rules tyrannically, and yet no one resists him because the people are shamefully long-suffering, and therefore his rule goes on for some time? Perchance this tacit consent and obedience — seeing that measures imposed by violence or terror do not, as the laws require, lose their force when resistance dies down, but by a certain law of their own may become purified by subsequent consent, express or implied, and may begin to work neither through violence nor terror — perchance, I say, this tacit consent and obedience may be of such sort that, unless a prior judgment of a superior authority declare the contrary, the tyrant may come to have the semblance of a lawful ruler.

[This is the first reference in the present treatise to a political condition which Salutati was able to take for granted, but which is by no means a matter of course to

the modern reader. This is the distinction between self-governing communities and those which acknowledge an overlord (*superior*), to which we have already alluded in the Introduction (p. 64). In theory every earthly rule — at least so far as Christian people were concerned — was subject to the overlordship of the Roman Emperor, except where, as in the case of the Roman Papacy, such overlordship was limited or abrogated by specific contract. The emperor was, in theory, the supreme arbiter in all cases of conflict of jurisdictions. He was supposed to have about him a body of legal advisers through whom he could express his decisions. In practice, however, such exercise of oversovereignty was casual in the extreme. It occurred, if at all, not as the orderly working of a regular judicial system, but rather as a political action. The emperor or his representative entered as a party into the particular local controversy which called for his interference. If he had a strong enough following his decisions might, temporarily, be enforced. If not he lost his case and was likely to be treated with deserved contempt.

In many Italian communities imperial overlordship was to all intents and purposes non-existent, or at most in a state of suspended animation. The situation then would be that described in the next paragraph of the treatise: "If the people acknowledge an overlord but are really without one because he does not rule but stays abroad." The same is true of papal or princely overlordship. The community might recognize it in theory, but in practice would insist on regulating its own affairs. Only under stress of political necessity would the community accept the definite action of the overlord as decisive. While, therefore, differences in this matter were differences of degree, their range was so great that Salutati could fairly speak of the Italian communities as divided into two

classes, those which did, and those which did not, acknowledge an overlord. In the former case it seemed clear that if an apparent tyrant *ex defectu tituli* were recognized by the overlord, then his defect was *ipso facto* remedied and his title became legitimated. In the latter case his defect could be removed only by such conduct in office that the community would acquiesce in his usurpation, as the least evil in sight. Florence, as a persistently Guelph city, was the most important representative of the *civitates* of the second class, those claiming to "be sovereign, neither having nor recognizing any superior," and it was, of course, with Florentine problems that Salutati was especially concerned.]

When a state is torn by factions, civil strife with daily conflicts generally takes place, and sometimes to quiet this discord and out of weariness with the existing troubles a Signor is chosen. Sometimes through popular demonstration, without due deliberation or election a prince is set up. Sometimes one faction prevails in armed conflict, and supreme power is conferred upon one person and the government of the whole community is entrusted to him. Whether a person raised to power in any of these ways may attain a legitimate title may perhaps be questioned. On this point I think it should be said that if a people be sovereign, neither having nor recognizing any superior, the will of the majority gives validity to their action. And if, in a people having an overlord his confirmation ensues, then beyond all doubt the rule in question will be a lawful one. If, however, this consent be lacking, the people being without authority of its own, and if the person thus elected begins to govern without waiting for confirmation from the overlord, then he is a tyrant. On the other hand, if the people acknowledge an overlord, but are really without one because he does not

rule but stays abroad, then perhaps the title may be good until the contrary be declared by the overlord.

But now, our chief problem is, whether it is lawful to rebel against a ruler who through arrogance [*superbia*] begins to abuse his power, even though he have a lawful and approved title. That he ought to be deposed and punished by an overlord I should suppose no one could doubt — provided only that it be done by regular legal process. Also, if the overlord or any other having authority shall judge him to be an enemy of the state, he may with impunity be driven out or killed. But a ruler deposed by a judicial sentence may not be banished or killed or injured without the approval of the overlord.

A community which recognizes no overlord may without doubt reject the rule of its executive. It may banish him or, for sufficient reason, may put him to death, as it sees fit. Thus the Roman people, on the motion of Lucius Junius Brutus, abolished the kingly power on account of the crimes of Tarquinius Superbus and his sons. So, on account of Virginia, who was dragged away by the wretch Claudius for his lust under pretence of possessing her as a slave, the rule of Decemvirs was done away, and the authors of the laws were themselves overthrown. Thus Nero, last of the Cæsars, declared a public enemy by the Senate, was marked for death by assassins who were set upon him.

[At this point the argument begins to swing over to the other side of the main problem. Up to now Salutati has done his best to show the evil of all tyranny. The tyrant is "a plague to society" because he is a tyrant, because he governs "not according to law" — *non jure*. The beneficence of his rule does not alter the fundamental irregularity of his relation to the community. This being admitted it follows that his rule ought somehow to be

controlled or eventually destroyed. But how? Historically speaking the answer has been a simple one. Tyrants have been "removed" by violent means, and Salutati goes on to illustrate using the famous defence of tyrannicide by John of Salisbury (d. 1180) as his text. Yet even here he finds room for a distinction. A tyrant may be removed, yes, but not "tyrannically." The violator of law may be resisted, but only by lawful action, and this may be either a decree of an overlord or a regular decision of the people.]

I will not dwell too long upon illustrations which can be gathered from Holy Writ as well as from pagan and Christian histories because, though an infinite number of murders of lawful kings and princes may be cited, these are not arguments to prove that the murder of kings or tyrants is not a crime. Let us, therefore, go on to the question. It is true as Aquinas quotes:

> *Ad generum Cereris sine caede ac vulnere pauci*
> *descendunt reges et sicca morte tyranni*
>
> JUVENAL, Sat. X, 113–114

"Few kings descend to Ceres' son-in-law except by murder, and few tyrants by a bloodless death." But the frequency of these murders does not imply that they are or ought to be considered lawful. It is one thing to kill a man and quite another thing to kill him lawfully. So that the learned John of Salisbury in his book called — I know not why — "Policratus" [*Policraticus*], in which he declares that it is right to kill a tyrant and tries to prove this by a multitude of illustrations, seems to me to reach no result. His illustrations prove, not that the murder of tyrants is right, but that it is frequent. In his third book, having said that the murder of a tyrant is not only lawful but fair and just, he adds: "For he that taketh the sword shall perish by the sword." I wish he had carried out this reasoning and proved his point; but soon in his ex-

position he adds: "but it is understood that he 'takes the sword' who usurps it of his own motion, not he who receives the right to use it from an overlord." Here he seems vaguely to hint that it is lawful to slay a tyrant. At the close of this third book — not to quote the whole — he says: "If the charge of treason includes all oppressors, how much more the charge that a man suppresses the laws, which ought to govern even emperors? Certainly no one would avenge the murder of a public enemy, and anyone who should fail to oppose him would fail in his duty to himself and to the whole body politic."

In the eighth and last book he treats the same subject in several chapters and in great detail, giving a multitude of illustrations. Occasionally, however, he sets certain limits to the right of tyrannicide. In the eighteenth chapter, after citing many cases from history, he adds: "Because it has always been proper to flatter a tyrant, it has been proper also to deceive him and honorable to slay him if he could not otherwise be held in check." "We are not," he says, "speaking of tyrants in private life, but of such as oppress the state. For private persons can easily be controlled by the public laws, which govern the lives of all men. A priest, however, even though he plays the tyrant, may not be constrained by the temporal sword because of his sacramental character, unless perchance after being deprived of his office he may have stretched forth blood-stained hands against the Church of God."

But John of Salisbury says also in the twenty-first chapter: "History teaches us, however, that we should beware not to plot the ruin of one to whom we are bound by an obligation of loyalty or by an oath." You see, then, do you not, how far even this writer, great as his authority is, would go in restricting the licence of tyrannicide? He

would not sanction laying violent hands upon a tyrant without due deliberation, nor would he think everyone authorized to decide whether a man be really a tyrant or not. So that, if you would proceed regularly, a sentence of the overlord must first be obtained if possible, or if there be no princely sovereignty, then a decree of the people must be waited for. A tyrant caught in adultery with a wife or a daughter may be slain as lawfully as any regular magistrate. For, though a tyrant is the worst plague that can infect the body politic, nevertheless no single person nor even several together may of their own motion without the authority of the overlord disturb a civil order lawfully established either by a decree of the people or through the obedience or the consent, express or implied, of the community. It would be a presumptuous, nay, a *superbum* act to rebel against a ruler while all the rest were willing to endure him, were he a Nero, an Ezzelino, a Phalaris or a Busiris. And though it may happen that the overthrow of the tyrant is approved by the people, though the highest felicity may be attained by those who are set free, though the greatest praise may be heaped upon the liberator or liberators, with undying renown, still if a valid procedure beacking, the undertaking was not well advised.

True, a successful and fortunate crime passes for a virtuous deed. Yet in my opinion, just as he who destroys a tyrant in a lawful way is to be loaded with honors, so he who unlawfully slays a ruler deserves the severest penalty. For, though every man is under such obligation to the Fatherland that he ought to devote even his life to the welfare of the state, nevertheless no bond or obligation requires that even a thing useful to the community shall be accomplished by a crime. So great indeed is the force of law, of honor and the authority of the

state that we are told by Cicero that when Pompilius as Imperator discharged the legion in which a son of Cato was serving, and the son in his zeal for the service remained in the army, his father wrote to Pompilius that if he wished to keep his son he ought to have him take a second military oath, because with the discharge of the legion he had fulfilled the obligation of his former oath and could not properly engage in combat with the enemy. And surely no one could claim that without a public commission, without a general or a commander he had the right to take up arms even to set his country free.

Let no one, therefore, take his soul in his own hand or make a reason out of his own will and so rise up against his lord, even though the lord be acting as a tyrant! This may be done only with the approval of an overlord or of the people, not through the impulse of an individual. Even a criminal, publicly convicted as worthy of death may not be executed by any and every one, but only by the edict of the prince and in the form prescribed by the laws of the state. Whoever sets these aside is a criminal.

Enough as to our second proposition.

CHAPTER III

Concerning the Principate of Cæsar, and whether he ought properly to be regarded as a Tyrant.

[It is in this third chapter that Salutati develops most clearly his sympathy with the idea of benevolent despotism. According to all his definitions Cæsar was a tyrant. His title was defective. His power had been gained by violence and could be maintained only in the same way. And yet, out of the chaos of civil war he had brought order and a working administration of government. Salutati is convinced that things had come to such a pass that

the rule of one man was inevitable. It was only a question whether this man should be Cæsar or Pompey, and fortune gave the decision to Cæsar. This result was then approved by every element of the population. Even the unstable judgment of Cicero inclined rather to the side of praise than of blame. And so our fourteenth-century political philosopher concludes that Cæsar cannot properly be described as a tyrant. His *defectus tituli* was wiped out by his eminence *ex parte exercitii*.]

John of Salisbury, whom we mentioned in the previous chapter, makes many references to Cæsar in the nineteenth chapter of his eighth book and expresses his opinion as follows: "Nevertheless, since he had seized upon the government by violence he was regarded as a tyrant and, with the approval of a majority of the Senate, was stabbed to death in the Capitol." Such is the view of "Policratus." Cicero also, who after Cæsar's death spoke very freely against him, says in his treatise on Duty: "That saying of Ennius: 'No social bond is sacred; there is no loyalty in the state,' is now more clearly manifest; for when things are in such a condition that but few persons can rise to eminence there is generally so great rivalry that the bonds of society are with difficulty preserved." And he adds: "This has recently been shown by the rashness of Cæsar who violated all laws, human and divine, for the sake of that dream of power which his mistaken judgment had conjured up."

Elsewhere, however, Cicero expressly calls Cæsar a tyrant, which he does not do in the above passage, giving him here no name at all. In the second book of the *De Officiis* he says: "If heretofore we did not know that no power can stand against the hatred of many, this has of late become clear. Nor does the downfall of this tyrant alone, whom the state, held down by force, endured and

even now that he is dead obeys, but the fate of other tyrants also shows how powerful the hatred of men is against this plague." I might also cite other passages in which this same Cicero pursuing too violently the memory of the dead Cæsar, censures and condemns him. Without further reference to "Policratus," this Cicero of ours, according to the teaching of the Academy which he followed, took upon himself to speak too freely *ex tempore*, saying now this and now that and contradicting himself with the change of circumstances.

It may be that a careful examination of his writings would show far greater praise of Cæsar than blame. In fact Cicero never attacks Cæsar without at the same time praising him or somewhat modifying the violence of his invective. Before the civil wars he always professed friendship for him and received from him many favors for himself and his friends. Further, his brother Quintus Cicero served under Cæsar in Gaul and was honored with the post of legate. Cicero himself wrote to the general Lentulus: "I must mention the divine generosity of Cæsar toward me and my brother. Whatever he may do I ought to support him, and now that he is in such great good fortune and has won such victories, even had he not done for us what he has, I think honor should be shown him."

That is the way Cicero spoke of Cæsar before the civil wars. Writing to his brother Quintus he says: "You speak of Cæsar's great affection for us; do you cherish this, and I will try to increase it in every way I can." When the civil wars began Cicero was always an advocate of peace, and Cæsar showed himself readily inclined thereto, and I believe that if we had his speeches on the subject we should find him taking Cæsar's part. But, in the course of the civil wars, as Cicero himself testifies, his sense of duty carried him into the party of Pompey. Notice what he

writes on this point to M. Celius, who seems to have suspected that Cicero would go over to Cæsar and to have written him to this effect, as we may judge from Cicero's reply: "Why you should suspect this from my former letters, as you say you do, I have no idea; for what was there in them but complaints of these [evil] times, which I am sure cause you as much anxiety as they do me?"

A little farther on he says: "I wonder that you should have brought up this matter, you who ought to know me too well to suppose that I am so imprudent as to turn from a well established cause to one that is failing and almost ruined, or so fickle as to throw away the favor of a most successful man after I had once gained it, to be untrue to myself and to throw myself into civil strife, from which I have ever held myself aloof." And again: "Even if this were so, I should never have thought of a departure [from Pompey] without your approval." Yet in many places he openly expresses the friendship he had with Cæsar. We have still preserved intimate and cordial letters between them. Cicero often refers to Cæsar's generosity and good qualities and says that he supported his cause in the Senate. Nowhere in his writings can you find any unfavorable criticism of Cæsar except in regard to the principate and the civil wars. But what he thought about Pompey's army and the menace of a victory on his part and how greatly he suspected and dreaded the violence and cruelty of his troops is made clear in many passages.

From his words quoted above in regard to Cæsar's principate, where he says that Cæsar conceived this design through a "mistaken judgment," does he not thus free him from the chief accusation by ascribing to him a blunder rather than a crime? What is done through a fault is beyond comparison more serious than what happens through a mistake. And in that passage where he calls

him a tyrant, does he not suppress the name of Cæsar as if he feared to say in so many words what he was nevertheless trying to make everyone believe? In my opinion, as I think the whole matter over, as long as Cæsar lived, Cicero was always heaping praises upon him, not only before the civil wars but after an end had been put to that struggle in five great triumphs. Read, if you please, his speeches in behalf of M. Marcellus and Q. Ligarius. Read also, I beg you, his letter to S. Sulpicius. Speaking of the restitution of Marcellus he says: "So glorious did that day appear to me that I seemed to see as it were the vision of a restored republic." In the speech in which he thanks Cæsar for the restitution of Marcellus he says the same thing. Cæsar was said to have boasted that he had lived long enough to pay the debt of nature and of glory, and Cicero replied: "the debt of nature perhaps, and I will add if you insist, the debt of glory, but, what is of the highest importance, not your debt to the Fatherland," as if this most ardent champion of liberty believed that the form of the state which Cæsar represented inclined not to tyranny but to a republic.

Nor did he think that any different state of affairs would be produced by a victory of Pompey. Observe what he writes on this point to M. Marcellus: "First, to suit oneself to the times, that is, to make a virtue of necessity, is ever the part of a wise man. Later there is less trouble on this score, as for example at the present moment. One cannot, perhaps, speak out what one feels, but one is at perfect liberty to keep silence. Everything is reported to one man, and he follows his own opinion, not taking counsel even with his own partisans. And there would be no great difference if he whom we have followed were master of the state. Now can we suppose that a man who in the midst of war, when we were all exposed to the same

dangers, acted upon his own opinion and that of certain most unwise counsellors, would be more complaisant in victory than when his fortunes were in doubt?"

After some further remarks to the same effect Cicero adds: "Civil war is deplorable in every way, but the worst part of it is the victory, which, even though it fall to the better party, renders them more cruel and less powerful, so that, even though they be not tyrannical by nature, they are forced to become so. The victor is obliged, even against his will, to do many things at the dictation of those through whom he gained his victory. Did you not see at the same time that I did, what a cruel victory that [of Pompey] would be?" Consider then, my worthy brother, what Cicero thought about the possible success of Pompey. In view of this it seems to me that it was the duty of those [two] most powerful chiefs of Rome not to engage in partisan warfare but to strive with all their might and with all their resources to prevent such a conflict and to avert civil war and bloodshed by lawful means.

The fact is, their struggle was not as to whether some one man should rule and be the supreme dictator of the state, but which of the two it should be. For not only were standards set against standards, eagles against eagles, weapons against weapons, all of the same kind, but on both sides were also equal disloyalty, equal fury and self-seeking, an equal desire to oppress the citizens, to set aside the laws and to think anything right which was pleasing and profitable to the victors. It was a fight, not to maintain the Republic, but to destroy it. "Which cause was the better, it is forbidden to know," says the poet. Now, when the citizens, divided into hostile camps, determined to settle by force which should rule, it came to pass by the will of God that Cæsar conquered. No one

will deny that he atoned for the horrors of civil strife, than which nothing can be more cruel, by his wonderful magnanimity. For, as Cicero says: "He conquered, yet did not excite hatred in his good fortune, but rather allayed it by his leniency." Speaking of his geniality and his gentleness of nature the Man of Arpinum did not hesitate to say: "We saw thy victory decided by the fortune of war; thy sword we have never seen unsheathed within the City. The citizens whom we have lost perished in the heat of battle, not in the fury of victory; so that no one can doubt that Cæsar if he could, would call many of them back from the realm below. In fact he is protecting as many of the hostile party as he can."

Who then can think the rule of a man of such a character, such sentiments and such deeds as these, ought to be called a tyranny? But you ask me to give it a name. Hear then what Seneca—whom some call Florus—says. In his compendium of Roman history, after describing Cæsar's wars, he concludes as follows: "Here at last was an end of fighting, a bloodless peace, a war counterbalanced by clemency. No one was put to death by order of the commander except Afranius, to whom he had once before been sufficiently indulgent, Faustus Sulla — Pompey had taught him to be afraid of sons-in-law — and the daughter of Pompey together with her children by Sulla. In this case he was taking precautions for the future."

So that, with the approval of the citizens, all kinds of honors were heaped upon this one man: statues around the temples, in the theatre a pointed crown, a raised seat in the Senate, a decorated gable for his house, his name given to a month of the year; besides these the titles of "Father of the Fatherland" and "Perpetual Dictator"; finally—whether by his own consent or not is uncertain — the insignia of royalty offered him publicly by Antony as

Consul. Can a man raised to power constitutionally and through his own merits, a man who showed such a humane spirit, not to his own partisans alone but also to his opponents because they were his fellow citizens — can he properly be called a tyrant? I do not see how this can be maintained, unless indeed we are to pass judgment without clear definitions.

We may, therefore, conclude with this proposition: that Cæsar was not a tyrant, seeing that he held his principate in a commonwealth, lawfully and not by abuse of law.

CHAPTER IV

Was the Murder of Julius Cæsar Justified?

[If, then, Cæsar was no tyrant the conclusion follows inevitably that his assassination was not justifiable. In working out this conclusion Salutati dwells especially upon the point that Cæsar's rule was accepted by all classes, but more particularly by the very persons who took upon themselves the responsibility of the assassination. They had no scruple in retaining the offices and honors which they had received from the Dictator. Most of all Salutati finds himself at odds with what he calls the "snarlings" of Cicero after Cæsar's death. His summary of the political situation at the close of the civil wars prepares the way for an eloquent appreciation of Cæsar's services to the state. He convicts Cicero out of his own mouth of playing fast and loose with the principles of a sound government, and he concludes with a glorification of monarchy as the nearest approach on earth to that single divine administration of the universe which is the model for all human political endeavor.]

Since, therefore, Cæsar cannot properly be accounted a tyrant, seeing that he was raised by the gratitude of his

fellow citizens to that height whence other princes, whom no one considers as tyrants, were carried on to the imperial succession, who can maintain that his murder was justified? Who will not say that his assailants, not lawfully, but by abuse of law, laid accursed hands upon the father of their country, the most righteous ruler on earth? — a crime, as Cicero declares, far more atrocious than the murder of one's own father! Think over what has been said above about tyrannicide and you will readily conclude that those senatorial conspirators had no justification for the murder of the Perpetual Dictator.

I think we should consider especially that the leading assassins of Cæsar — Brutus, Cassius and other Romans — kept the praetorships, pontificates, quaestorships and other government offices which had been established by decrees of Cæsar. Furthermore, that all the acts of the Dictator were confirmed by decrees of the Senate, and that everything he had done or even planned to do and for which he had drawn up written documents, remained in force. Who, then, can bear with patience to hear Cicero and others speaking against Cæsar, when they and some whom the law of conquest had deprived of their honors as well as of their citizenship, received from Cæsar restitution or new positions or confirmation of former ones as legitimately acquired.

What, I pray you, became of that devotion to the laws, that love of country, that hatred of the tyrant, when they were ready to accept as lawful, grants or confirmations made by him to citizens whom he had overcome? Search through all the histories and tell me, if you can, of one person who refused a favor from Cæsar because he ruled unjustly or like a tyrant! Scipio Nasica and C. Figulus, called back, the one from Gaul the other from Corsica, resigned their consulates because on the motion of T.

Gracchus, it was discovered that in the consular comitia the auspices had not been regularly taken. Camillus would not even return from his exile at Veii until he learned that all measures relating to his dictatorship had been legally carried out. Cincinnatus checked the Senate in its desire to prolong for a second term the consulate which he had completed, thus denying himself an honor forbidden by the law. And yet at that time no one pretended that a dictator, even though he were created irregularly and contrary to law, could not take valid action, and no one would have refused, even after the murder of such an one, honors which he had conferred.

This being so I marvel that Cicero—whom I admire—should have been so stirred to fury against the memory of the Dictator as to say, not only that he was justly slain, but that all good men either counselled his death or desired it in their hearts or approved it by their declarations. This statement he makes in his discussion with Antony in his second Philippic. Now, was the death of the Dictator pleasing to "all good men," when the Roman *plebs* returning from his funeral attacked the houses of Brutus and Cassius with torches and were with difficulty held in check, or was there not in the whole people a single "good man," my dear Cicero? Or was it with the favoring consent of all good men that the assailants of Cæsar and their accomplices, after they had murdered him, seized upon the Capitol to protect themselves? Or, when the day was not long enough for the vast number of those who brought gifts to the funeral, was that a sign that his murder was pleasing to everyone? Or was the decree of the Senate conferring upon him all honors human and divine not a sign of the public devotion? And was it not a proof of affection rather than of hatred that matrons threw upon the funeral pile the ornaments they were

wearing, together with the robes and amulets of their children, and legionaries and veterans gave the arms they had carried at the funeral service? Was not his tomb visited night after night by people of foreign nations as a token of the public grief? Who could say that subjects of the Roman Empire, always on the watch for their own advantage, would have shown such interest in the funeral of a tyrant hateful to all good men and thus have given offence to all these good people?

But, why bandy words with me, my dear Cicero? Why make conjectures as to the secrets of men's hearts, when the facts of the case proclaim the contrary? You will have to be a greater master of oratory than you are, Cicero, if you expect to make guess-work and mere words overcome the evidence of facts. The terror of the conspirators and their precautions in occupying the Capitol are not indications that the murder was approved by "all good men." Who can believe that all those good men who had experienced Cæsar's generosity and had received from him the gift of their lives and honorable distinctions would, to a man, have proved so ungrateful that all would have desired and approved his death? If this were so I should insist that they deserved to be shut out from the generous favor of the chief of state and thrust into the vilest servitude.

For myself, in spite of the snarlings of Cicero and the rest in the fury of later civic strife, as I study the movement of events and their outcome, I have no doubt whatever that Cæsar so won over his followers by kindness, his enemies by leniency and all by his prudence and magnanimity, that his murder was welcome to but very few. It was pleasing to all of the opposing faction not, in my judgment, because of their hatred of Cæsar, but in the hope of recovering their positions and their honors, which,

if he were to be chief, they saw would never be equal to those of the victorious party. I believe that the boldness of speech against Cæsar was put on, not on account of hatred for the man, but out of zeal for liberty, so that through this example everyone should be deterred from aspiring to supreme power.

But why so many words? Does it not seem as if men and gods, the powers above and below, conspired to avenge the death of Caesar? Within three years every one of his assailants and the conspirators against him met violent deaths in various ways. It is especially to the credit of Octavius that he spared all the rest and contented himself with punishing those who were guilty of parricide. But you will say: "Were not his assailants aiming to secure the freedom of the state? Do we not owe to our country all that we are and all that we can do? And what greater, what more godlike service can we render to the Fatherland than to deliver it from the misery of servitude? So great, so excellent, so all-embracing a good is this that nothing else can or ought to be compared with it. Therefore Cassius and Brutus and Trebonius and the rest of the conspirators did what was becoming to great-hearted men and performed the greatest possible service to the state."

To this objection let that greatest of princes, the godlike Augustus, make answer. It is reported that when he was visiting the house of Cato out of respect for the memory of that great citizen, and the throng of flatterers present with one voice were criticizing Cato because he had been a too persistent partisan of Pompey, he said in his defence: "He who is unwilling to change the existing order of the state is a good citizen and a good man." In truth, so many misfortunes are wont to follow and so many scandals to be stirred up when such a change in the

state is made that it is better to bear all ills rather than take the risks of change.

There never was anyone possessed of power so great or prudence so divine that a revolution could realize his [or its] true intention. In a great community there are varied talents, differences of judgment, a multitude of wills, and in laying the foundations of a constitution every man aims at his own honor and his own advantage. Nor is there a man who does not think it fitting that whatever he desires should come to him. So it happens, that before an agreement can be reached and the ambitions of all can be met, there will be many tumults, no end of contentions and countless plots with imminent peril. And this even though fighting may have ceased and no extreme bloodshed have been attempted — for if it comes to that, nothing more cruel and more ruinous can happen.

Therefore, to avoid these evils, the life of a man is to be spared — not merely the life of a Cæsar, who practiced such leniency, as history shows, but that of a Sulla or of a Marius, who could not be satiated with the blood of their fellow citizens. I should like, then, if you please, my dear Cicero, to examine this argument with you for a moment. You saw the whole Roman body politic split into two parties and engaged in a conflict, not merely between fellow citizens, but between blood relations, or, to use a more familiar word, a worse than civil war. You saw Pompey conquered and overthrown; you saw Cato and others, the broken fragments of the defeated party, obstinately renewing the fight in Africa, beaten with equal slaughter; you saw the name and faction of Pompey in Spain renewed and touching a higher point of success than could have been hoped for the remnants of a conquered party; and then, just as fortune seemed to promise

them the very height of prosperity, thrown down by a disaster not unlike those which befell the other attempts; you saw the laying down of arms, the end of civil war, and the exhausted Republic rising as if from the disease of mortal strife and resting peaceful and secure in the power of one chief.

Now answer me, Cicero, I pray you: What haven did you perceive for the ship of state so long tossed by storms except that the Republic should be brought under the control of one victor, as a check to the victorious party and for the safety of the defeated one? Tell me, had you forgotten the five years of Sulla's dictatorship, which, bloody as it was and fatal to almost every one of the vanquished was nevertheless in a way a prop to the Republic? What did you find lacking in the perpetual dictatorship of Cæsar which the conquered could ask for? Was it not a protection to the defeated and a bridle upon the victors? His dictatorship ruined no one, but on the contrary preserved the lives and the fortunes of many. It was a protection to the timid, a restraint upon the cruel, safety for all and a glory to the chief. The public welfare increased daily, and already the conquerors and the conquered were being set upon an equal level of honor and service.

Do you remember, Cicero, what you yourself said: "By you alone, O Cæsar, can all those interests be revived which you see overthrown by the fury of that inevitable war and now lying prostrate. The courts are to be reopened, credit restored, license repressed, a new generation brought into being. Whatever has gone to ruin is to be reëstablished by stringent legislation. It was inevitable in the midst of so great a war, in such excitement of opinion and of arms that the exhausted republic, whatever the outcome of the conflict, should lose many of the adornments of its dignity and many guarantees of its

stability and that both leaders should do many things while under arms which as civil magistrates they would have prohibited. All these wounds of the war are now to be healed by you, and there is no one but you who can heal them."

These are your own words, and they were far more than mere flattery. For who but Cæsar could have cured those evils? The Senate, divided as it was into factions? The Equites? Or the populace or the *plebs* struggling in the same factional conflict, fighting between victors and vanquished, with interests not merely diverse but directly in opposition — how could they have accomplished the result? Believe me, you could have imagined no hope for the Republic that would have had a favorable outcome, except the clemency and justice of the conqueror. There might, perhaps, have been a chance for harmony if Cæsar had not fallen a victim to the unjust violence of men. But the opportunity for this was lost through the fury of those friends of yours whom you laud to the skies as liberators of the city and the world, when they not merely opposed the only man who, according to your evidence, could apply the remedy, but by means of ingratitude, treachery and crime actually removed him.

Why, you yourself, Cicero, in defending the cause of your friend Plancius, said, with the approval, I believe, of all and in divinely appropriate language: "If I see a ship holding her course with favoring winds, not toward the harbor which I had formerly chosen, but towards another equally safe and tranquil, should I risk a fight against the storm rather than give way to it and seek safety first?" Such *was* your judgment. But now, when the ship of state, not with favoring winds, but tossed upon the billows of civil war, was nearing a harbor, not the one you had chosen, but one equally good or perhaps

better, would you have had it pushed out again into the troubled sea of civil commotion? Imperial rule is a mighty monster, not easily guided or controlled at will. But, by the majesty of the everlasting God! Is there no such thing as a commonwealth under a single rule? Was there no commonwealth at Rome so long as it was under kings? Was there to be none after Cæsar under the rule of one or another consecrated ruler? Is it not sound politics, approved by the judgment of all wise men, that the monarchy is to be preferred to all other forms of government, provided only that it be in the hands of a wise and good man? There is no greater liberty than obedience to the just commands of a virtuous prince. As there is no better or more divine rule than that of the universe under one God, so human sovereignty is the higher the more nearly it approaches that ideal. But nothing can be more like this than the rule of one man. For the government of many is nothing unless the multitude are united in one common sentiment, and unless one commands and the rest obey, there will be not one government but several.

Why, Cicero, should you condemn what you have learned from Aristotle? You know that among the kinds of government, various as well in their nature as in the order of time, considering the welfare of the subjects and the very nature of things, the monarchy has precedence of all the rest. It is a law of nature that since some are born to serve and others to rule, in order that equality may be preserved among all in due proportion, government should be in the hands of the better man.

If in your time, O Cicero, there had been one prince, there would never have been a civil war and such great disorder among you. You might, in fact you ought, to have learned from the devastations of the Sullan period and the party conflict which followed, that in order to re-

move these evils a monarch was needed, through whom the whole body politic should be guided in due order. In that political aristocracy of which you were so fond there could either have been no remedy at all for the ills of the state on account of the conflict of opinions, or it would have been accompanied by such difficulties and dangers as to be wholly unsuited to the times. This was clearly shown by experience after Cæsar had been slain and the harmony of a single rule had been destroyed. Straightway the civil strife broke out again, so that it was not merely useful but necessary to resort to a monarchical ruler in whose hands so many disturbances and such diversities of interest might be reconciled and harmonized through his justice and equity. If this had not been done by Octavius, never would the Roman fury have quieted down; never would there have been an end of evil days, and civil strife once begun again would have gone on to the final ruin of the very name of Rome. We read that Octavius seriously considered the plan of restoring the Republic, and I am persuaded that nothing could have turned him from that purpose except the conviction that everything would then fall back into confusion. The earlier agitation had not subsided, and the minds of citizens had not recovered from that terrible shock.

Referring to this, Vergil, speaking as always with divine genius, says: [1]

Pauca tamen suberunt priscae vestigia fraudis,
Quae tentare Thetim ratibus, quae cingere muris
Oppida, quae jubeant telluri infindere sulcos.

Some traces may remain of that old guile
Which bade men vex with ships the sacred sea,
Or circle towns with stone, or scar earth's breast
With furrows. Trans. T. C. Williams

1. *Ecl.*, iv, 31–33.

We must note that he says "fraud," not "error," and fraud implies wrongdoing, in which sense it is often found in Livy.

We may, therefore, conclude that the murderers of Cæsar slew, not a tyrant but the father of his country, the lawful and benignant ruler of the world, and that they sinned against the state in the most serious and damnable way possible by kindling the rage and fury of civil war in a peaceful community. I am not blaming them for their proud spirit in refusing to tolerate a superior — or even an equal. I will not blame them for their ambition in hoping for honors and offices and desiring to be counted among the leaders of the Roman Senate and people. This was the glory they desired and worked for; but these are things not to be gained by parricide, by criminal practices, by pride and ambition. True glory is the offspring of true virtue and is found only in the reputation for true virtue.

So much for the fourth article of our program.

CHAPTER V

That Dante was Right in Placing Brutus and Cassius in the Lowest Hell as Traitors of the Deepest Dye

[In this final chapter Salutati tries to strengthen his case by bringing in the evidence of a modern, who, after a period of comparative obscurity, had come into his own as the acknowledged interpreter of the finest national tradition. Dante's judgment upon the murderers of Cæsar as types of the most depraved forms of treason seems to Salutati to confirm his own opinion as to the validity of Cæsar's rule. Furthermore, this judgment of Dante is proved correct by the fate of the conspirators themselves, the divine judgment prefiguring the poet's fancy.]

Since then Cæsar, as has been most abundantly proved, was not a tyrant by defect of title, seeing that a grateful country freely chose him for its prince, nor by reason of *superbia*, since he ruled with clemency and humanity, it is clear that his murder was a most accursed crime. Wherefore our own Dante in his description of the spiritual life, remembering that treason, which always breaks out through a breach of faith, is the gravest of all sins, placed traitors in his lowest hell, where also in the centre of the universe he put the three-headed Lucifer, distinguishing the three heads thus: The middle one he made red, that on the left the deepest black, the right-hand one a color between white and yellow, known as "pallor." Then Dante represented Judas, the betrayer of Christ, as caught by the head in the central jaws of the demon and wretchedly stuck there, with Brutus in the maw of the left head and Cassius of the right, caught by the legs and torn by the torture of this perpetual feast.[1]

All this is conceived by the supreme poet with a divine reasonableness. For he made those traitors equal in place and in person with the Lucifer who is punishing them. One of them had for a price betrayed the son of the eternal God, father and creator of all things; the others had murdered the father of their country, and Brutus even his own father, with the added crime of treason. Further, the poet so distinguished them by the heads in which they were tormented that the enormity of their offences was made clear, each by itself. The colors of the three heads may be referred to the effects produced in the minds of the criminals. The first is redness from the gnawings of conscience; the second pallor from fear of punishment; the third blackness from the stain of the offence itself.

1. *Inf.* xxxiv, 61–67.

These effects, though common to all sinners, are apportioned among these three in a peculiar sense. For Judas, plunged in the red head, which is the first, pays the penalty with his head in the jaws of Lucifer. In fact the word "Juda," as Jerome proves from the book of Philo, taken in the Hebrew sense means in Latin *laudatio* or *confessio*, and "Judas" therefore, "confessor" or "glorifier." Now, when he was overcome by remorse and returned the thirty pieces of silver, he said: "I have sinned and have betrayed innocent blood," the word of confession being *peccavi tradens* and the word of praise or glorification being *sanguinem justum*. And so he, being penitent, and having hanged himself with a cord, is punished by being plunged into the first head, the red one.

As to Cassius, it is said that, believing Brutus to be beaten and fearing to fall into the enemy's hands, he begged one of the bystanders to cut off his head. But history tells us that in that fight Brutus met the army of Octavius and drove it out of its camp beaten and destroyed; but Cassius, seeing horsemen hurrying back to occupy the camp, supposed they had taken flight and thinking it was all up with Brutus, betook himself to a little hill, and there, his scout being too late in returning, took his own life. Therefore he is assigned by Dante to the pallid head.

Brutus, although victorious over Octavius, and though he learned at a late hour that his party had won a naval victory on the same day, when he saw that Cassius was beaten and learned of his death, perceiving that his own fortunes were declining and overcome by the baseness and treachery of his cause, begged one of his companions to pierce him in the side. Since, therefore, he was branded with the mark of an especially atrocious crime, being reputed to be the son of Cæsar, Dante assigned him to the

black head. That he was Cæsar's son those may readily convince themselves who know that Cæsar had had intercourse with the mother of Brutus and who read that at the moment of his death the Dictator, seeing Brutus rushing at him with drawn sword, cried out in Greek, — if I may express the Greek words in Latin letters,—*kai sy, teknon?* that is "Thou too, my son?" which is written in Greek thus: *καὶ σύ, τέκνον.* In the case of Brutus, besides the reason of his shameful conduct there is added a certain strange incident. It is historically recorded, that as he was working alone at night, after a light had been brought, a dark figure appeared to him, and in reply to his question: "Who art thou?" replied: "I am thy evil spirit!"

Dante, therefore, was right in assigning the black face to him. And who can criticize Dante for thrusting into the depths of hell and condemning to extreme punishment those abandoned men who sinned so grievously in treacherously murdering Cæsar, the father of his country, while he was administering with such clemency the government which the Senate and people of Rome had conferred upon him in a desperate crisis to put an end to the evils of civil war? It was a reasonable idea to plunge Judas, Cassius and Brutus into the same place to which the prince of the world of demons, who through pride had rebelled against God his maker, was relegated in the plan of the poem. For Judas betrayed the God-man, and Cassius and Brutus treacherously slew Cæsar, the image, as it were, of divinity in the rightfulness of his rule and in the multitude of favors which he had abundantly heaped upon them, thus destroying the republic and bereaving the Fatherland.

Finally, we may find sufficient authority for Dante in the words of Vergil, whom he chose for his guide and

master. For among the very last of those whom Vergil places in the lowest hell he puts those

quique arma secuti
Impia nec veriti dominorum fallere dextras
Æn. VI, 612.

"who took up arms disloyally and feared not to deceive the hand of their masters." Those who treat events with the art of the poet are wont to praise or blame men and their deeds according to the success of their undertakings. Thus Homer sets Achilles above Hector; Vergil prefers Æneas to Mæcentius and Turnus, and places Antony below Octavius and Pallas below Turnus. So all the rest try to show that the victors were better men than the vanquished. Why, then, should we expect our Dante to praise those whom defeat has laid low and whom the later good fortune of the victors has left in obscurity? Or why should we suppose that in his poem he would reinstate and declare worthy of praise those whom the strength of man has smitten and whom the will of God has shown by the arbitrament of war and the evidence of fortune to be not merely unfortunate but disloyal and criminal?

Further, since that most learned and Christian author saw from the logic of events — the most certain witness of the divine will — that God had decreed that all the affairs of men should be brought under the one single government of the Romans, was he not bound to place among the damned, as men working against the divine plan, those who tried in every possible way to oppose this order?

And so we may conclude that our Dante, in this matter as in others, made no mistake either theologically or morally, and still less poetically, in condemning Brutus

and Cassius in the way he did — nay, not only that he made no mistake, but that without any question he rendered a just judgment.

It remains, finally, to dispose in a few words of the question you raise about Antenor and Æneas. In the first place, those most ancient historians Dares Phrygius and Gnosius Dictys, state in no doubtful terms but plainly and clearly that those men negotiated with the Greeks to betray their country. For this reason I cannot blame Guido de Columna Messana, who follows these authors, for branding both with the mark of treason. It is my belief that [later] when the Romans had prospered and the Julian family had reached the summit of human glory, since they boasted Æneas as their ancestor, certain writers spared his memory. Among these is Sisenna, who is said to have represented Antenor and no one else as the betrayer of Troy. Then Livy, a most famous author, exonerates them, saying that they were protected by the Greeks in accordance with the law of hospitality, which the ancients held especially sacred and because they had always favored peace and the restoration of booty and of Helen. An honorable excuse indeed, but not needed by either Antenor or Æneas, seeing that Capys, Helenus and many others who have never been considered traitors passed safely out of Troy with the consent of the victorious Greeks — unless, indeed, they were guilty upon some other count.

Between these [various opinions] you or anyone else may be the umpire. You may, if you please, with Dictys and Dares, regard these men as traitors. You may, if you prefer, on the authority of Sisenna, acquit Æneas, or with Livy acquit them both and treat Dictys the Cretan and Dares the Phrygian as apocryphal writers. I do not

believe that the precise truth can be discovered from the books that I have read, especially since we have the tradition of twenty-five centuries, and tradition does not ordinarily persist if its report is false.

Such, my dear Anthony, is my judgment upon these two problems. If I have been rather tardy in giving it, lay this to those occupations of mine to which you refer. If I have not given you satisfaction, ascribe this to my ignorance; for I am always more ready to learn than to teach.

Farewell! Live happily and strive, I beg you, to show yourself a true man, a credit to your family and beloved by all. Amen.

Here endeth the treatise *De Tyranno* published by Coluccio Pierio of the family of the Salutati.

III

BARTOLUS OF SASSOFERRATO

TRACTATUS DE TYRANNIA

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Introduction

IT is not possible to go very far into the study of Salutati's essay on "The Tyrant" without becoming aware that he was not the first Italian to deal with this subject. In the previous generation Bartolus of Sassoferrato, the most famous jurist of the early Renaissance, had published a treatise under a similar title: *De Tyrannia*. So far as I know this treatise has never been done into English, and it is offered here as a supplement to Salutati's essay and as a most interesting contribution to our understanding of that very peculiar institution, the Italian *tyrannis*.

A comparison between the two essays may well begin with the variation in title, which seems to be characteristic of the whole difference in the approach of the two authors to their common subject. Bartolus, the jurist, thinks of the general idea of "tyranny" as an institution. Salutati, the literary man, humanist, "poet," is concerned primarily with the individual, the ruler who does right or wrong, and who is to be judged by moral standards of conduct. Consequently Bartolus's subject is "tyranny," Salutati's is "the tyrant"; and this distinction, which at first thought might appear trifling, if not purely fictitious, is carried out through the whole course of the two presentations. Salutati's is a brilliant piece of argumentation to prove a point. It is developed chapter by

chapter in logical sequence, and always with the human element kept well in the foreground of the picture. Bartolus, on the other hand, is concerned only to define the phenomenon of "tyranny" as he finds it, and to show the juristic consequences that follow from it. While Salutati's discourse is embellished with classical decoration drawn from widely scattered sources, and his style is polished to the limit of the scholarship of his day, Bartolus has, if one may say so, no style at all. Latin is for him only a sort of code, required to make him intelligible to his colleagues, and his only decoration is found in his continual references to passages of the civil and the canon law. Salutati's work was written to be read; Bartolus's was written to be used.

As to the dependence of the later upon the earlier work, Professor Ercole, in his introduction to Salutati's essay, has gone into that with almost unnecessary thoroughness. There can be no doubt whatever that Salutati knew Bartolus's treatise. As a man of law, if not in the strict sense a jurist, and a man also of the widest reading, it is unthinkable that the greatest legal authority of his own student days should have been unknown to him. Certain similarities can indeed be explained without supposing a literal imitation, but others are too patent to leave room for doubt. We may quite safely assume that our humanist took the work of the elder scholar as the nucleus of what he had to say to his young friend, the student in Arts, and through him to that larger audience which he was really addressing. But it was only as a nucleus; the development of the argument was his own. After the first chapter he follows a quite independent train of thought, dealing with matters which Bartolus had neglected in order to bring out another series of ideas, which, in turn, were of no consequence to Salutati. The two treatises

thus supplement each other and give together a vivid picture of a political situation sharply suggesting that which confronts us in the crowding events of to-day in the world of European politics.

As to the personality of the great fourteenth-century jurist we are but meagrely informed. The scanty details of his short, but incredibly productive life were gathered by the German legal historian Savigny nearly a century ago [1] and have recently been somewhat augmented by Mr. C. N. S. Woolf in the introduction to his careful study of Bartolus in 1913.[2] Bartolus was born at Sassoferrato in the Duchy of Urbino in the year 1314, ten years before the publication of Marsiglio's *Defensor Pacis*, and four years after the appearance of Dante's *De Monarchia*. He began his law studies at Perugia about 1327, and finished them at Bologna, taking his doctor's degree there at the age of twenty. He was professor of law at Pisa (1339–1343), and then at Perugia, until his early death in 1357. His intellectual product during the twenty-three years of his active professional life fills ten closely printed folio volumes. Outside this strictly professional activity he took no part, so far as we know, in the public life of his time. His immense reputation as the "prince of jurists" rests wholly upon this enormous literary output.

We have said that Bartolus was no stylist, and in the ordinary sense of the word this is true. His sentences are often involved, his syntax more than doubtful, the meaning at times quite obscure. And yet, as one unravels the intricacies of his exposition, one feels that the course of

1. F. C. von Savigny, *Geschichte des Römischen Rechts im Mittelalter* (1834–51), Bd. vi, c. 53.

2. Cecil N. Sidney Woolf, M.A., *Bartolus of Sassoferrato: His Position in the History of Mediaeval Political Thought*. The Thirlwall Prize Essay, 1913.

his thought was crystal clear. He knew what he wanted to say, knew it so well that, as not infrequently happens, he did not allow for the less trained comprehension of his readers. Adding to this the uncertainties and shortcomings of the printed texts, we find the labor of accurate translation far from easy.

Bartolus wrote for an audience versed in the manipulation of the texts of the civil and the canon law, and with these texts constantly at hand, so that the overburdening of his manuscript with abbreviated references doubtless seemed to him a convenience for the reader as well as the justification of his opinions. As the present translation has been made, not for the professional jurist but for the student of political theory, it has seemed best not to encumber the text with this comparatively unimportant matter. Only in a few instances, where the sense was incomplete without them, have the legal references been retained.

As a lawyer Bartolus is, of course, bound to respect precedent where it affords him a certain indication, but he is not a slavish follower of authority. He weighs his evidence with great caution; but when he has come to a clear conclusion, he does not hesitate to say so. "I think," or "in my opinion," is a frequently recurring phrase after he has stated his problem and cited authorities upon it; and these *dicta* of his became the basis of the extraordinary reputation which he enjoyed during succeeding generations. The commentaries of Bartolus, it used to be said, are of as great weight as the text of the law itself.

The essay on Tyranny belongs in that category of Bartolus's writings specifically described as *tractatus*, that is, treatises upon one or another definite legal problem. Of these he left a considerable number occupying about

one half of the tenth volume of his printed works.[1] They touch upon a great variety of subjects, from the interpretation of recent imperial decrees to the law of property in alluvial deposits or in islands formed by the shifting of river banks, these latter illustrated with numerous drawings.

Bartolus does not, as the literary writers of his day were prone to do, give any indication of the motive which led him to the composition of an essay on tyranny. He plunges at once into his subject, beginning with definitions and working on systematically through the various types of tyranny here outlined. We are left to our own speculations as to the motive; but, as in the case of Salutati, it is not difficult to find a fairly satisfactory answer. Salutati's explanation, that he has been asked for information by a student in Arts, personally unknown to him, and that his sense of responsibility for the learning which a gracious God has vouchsafed to grant him will not permit him to refuse, is probably nothing more than a conventional literary device. Even if he was not asked, he could count upon his reputation as the famous scholar, the universal genius, from whom an opinion on any subject commanded general attention.

With Bartolus the case was very different. If appealed to at all, it must have been as to the acknowledged expert, whose judgment on a point of law, public or private, was worth more than that of any other living man. Indeed, it could hardly have failed to happen that in the two decades of his greatest activity, from 1337 to 1357, he

1. In the work of this translation I have used two editions in the Library of the Harvard Law School: Bartoli à Saxoferrato, *Consilia, Quaestiones, et Tractatus*, Basileae, CIↃ IↃ XXCIIX (1588); Bartoli à Saxoferrato, Omnium Juris Interpretum Antesignani, *Consilia, Quaestiones, et Tractatus*, Venetiis, MDCII. The two texts differ only slightly, but in several cases these differences have been of material assistance in clearing up doubtful passages.

should often have been called upon to define precisely the legal status of the most interesting type of political personage in the Italy of his day. Such an opinion might with equal propriety be called for by the ruler himself, to fortify his position with valid legal arguments, or by the champions of popular government, to provide weapons for an attack upon a usurping or a tyrannical master.

As to the date of composition of the *De Tyrannia* we have no precise information, but certain more or less definite references seem to point to the later years of the author's life. The date of his death (1357) coincides with the most dramatic incident in the history of the *tyrannis* in the central Italian states, the publication of the famous *Constitutiones Egidianae*, marking the final triumph of Cardinal Egidio Albornoz, legate of the Holy See, over the petty tyrants of the papal territories. This remarkable administrative enactment was the culmination of four years of fighting and diplomacy, during which the great Cardinal had employed every weapon in the armory of constitutionalism as against the extremes of irresponsible power. It bears throughout the impress of legality struggling to free itself from the encroachments of arbitrary and violent individualism. One can hardly imagine that the lawyers who, under the direction of Albornoz, worked out the details of this elaborate document should have ignored or failed to use so valuable a contribution to their work as this careful analysis of the type of government they were trying to eradicate or to control. It is even probable that the treatise itself owed its origin to inquiries made by these same editors of the Egidian code. The several problems which it discusses in the abstract must have been precisely those which the Cardinal, in his double capacity as general and legislator, had to meet in the daily

encounters of his difficult mission. To be quite sure just what a tyrant was, to grasp his actual relation to the people he ruled, to set just the right value upon his public acts, to preserve the continuity of the local administration, to judge the effects of a state of tyranny upon the obligations entered into by the previous government, and to estimate justly how the obligations of the tyrant himself were to be carried out by the government that was to follow him: these were the pressing practical questions in every case of recovery of the papal authority.

In answering all these questions, the carefully reasoned presentation of Bartolus would be of the greatest value. While I should agree with Mr. Woolf[1] that Bartolus thought of the *tyrannis* as an interim condition and not as a permanent form of government, it is, I think, clear that he recognized it as one of the ever-present facts in the Italy of his time. He was not concerned with mere academic discussions. When he reaches the point in his analysis of the types of tyranny where his saintly predecessor, Pope Gregory I, speaks of the man who wishes he had the chance to be a tyrant but fails of his sinful desire, Bartolus dismisses the case with the remark that this is not a matter for the jurist, since no man can be punished for his thoughts, and therefore he leaves it to the theologians.[2] His business as a jurist was to take the facts of human society as he found them, and then to show how the principles, not of abstract justice, but of that law which was to him the sacred embodiment of justice among men, were to be applied to these facts.

And here we may make one more instructive comparison between our two authors. It was a part of Salutati's duty as the chief notarial official of a leading Italian *civitas*, to influence the course of political events to the

1. *Bartolus of Sassoferrato*, ch. ii, p. 173. 2. § 6.

advantage of his own community. Bartolus, as a private citizen and learned jurist, had the more independent function of interpreting the law as it was, without reference to any such limitation. It is this purely juridical quality that gives to the *De Tyrannia* its peculiar value to the student of public law and to the historian as well. We see reflected here the most acutely pressing problems of fourteenth-century society. If we could fill in these barren outlines with names and events, we should have a very complete epitome of Italian *trecento* history.

THE TREATISE OF BARTOLUS UPON TYRANNY

CHAPTER I

§ 1. My first inquiry is as to the derivation of the word "tyrant." It is derived from the Greek word τύρος, in the Latin *fortis* or *angustia*, wherefore powerful kings were called tyrants. Later it came about that the word was applied to the worst of kings who exercised a cruel and wicked rule over their peoples, that is oppression (*angustia*), because they oppress (*angustiant*) their subjects. This is the opinion of Hugo. That τύρος is to be understood as I have said appears from the interpretations in Scripture, where it is rendered by *angustia*, or *tribulatio* or *salvatio* or *fortitudo*. This will be of use to us when we come to consider the nature of the tyrant and how he is to be recognized as such.

CHAPTER II

§ 2. I inquire next as to the definition of a tyrant. Gregory,[1] in the second book of his *Moralia*, gives this

1. Pope Gregory I (590–604).

definition: "A tyrant properly so called is one who governs a commonwealth arbitrarily (*non jure*). But it must be remembered that everyone of a proud spirit (*superbus*) practises tyranny after his own fashion — one in a state through an office which has been conferred upon him; another in a province, another in a city (*civitas*), another in his own house, while another may practise tyranny through his own inner malice, regarding not God in his inmost thoughts, and though he lack the power, doing what evil he can. He is a tyrant at heart, being governed within by iniquity. For, if one is a tyrant who outwardly oppresses his neighbors, it is enough if one inwardly desires power in order that he may oppress them."

§ 3. Such are the words of Gregory, and they are to be kept as a rule of action. Let us briefly consider them.

"*Proprie tyrannus, etc.*" As a king or a Roman emperor is a lawful and true and universal ruler, so if anyone gains this office unlawfully he is a tyrant in the strict sense [*proprie*].

"*Non jure principatur, etc.*" This is true because he lacks a sound title, being chosen unlawfully, and he is [to be] condemned, or else he is crowned without being elected and afterward condemned by a judgment, as in the case of King Saul in I Kings [Samuel], c. 13, where the prophet spake: "Thou hast done foolishly, thou hast not kept the commandment of the Lord thy God which he commanded thee; for now would the Lord have established thy kingdom upon Israel forever. But now thy kingdom shall not continue, etc." It is evident, therefore, that a king forfeits his kingdom through sin, and therefore he is a tyrant because he does not rule according to law. Above, however, I was speaking of a universal tyrant, but here of a special one, who is not a tyrant in quite so strict a sense.

§ 4. "*Omnis superbus, etc.*" Pride [*superbia*] is the root of all evil, and this is especially true of a tyrant. There (§ 5) follows in that passage the analysis of five kinds of tyrants. One is a general tyrant over the whole Empire of Rome, another of a province in which he rules not according to law, another of a city, another of a house and another of himself. Whether there can be a tyrant of a neighborhood we shall have to inquire, and on this point I will speak later.

"*His per acceptam dignitatis potentiam.*" This must be determined by what precedes or what follows.

"*Alius in provincia.*" In a province no one can lawfully have supreme power such as I mentioned above in speaking of the state as a whole. The procedure is different if one is made *praeses* of a province for a given term or during the pleasure [of the appointing power], and at the expiration of his term refuses to make way for his successor. Such an one is a tyrant and falls under the *lex julia majestatis*.

"*Alius in civitate.*" Our discussion will be chiefly occupied with the tyrant in a *civitas*.

"*Alius in domo.* How this is to be understood, I will discuss later.

"*Alius latentem nequitiam exercet apud se.*" The tyranny of this one remains concealed, being solely in his own thoughts, and this is not a matter for a jurist to consider, since no man can be punished for his thoughts. § 6. Still, we must remember that if one plans an attempt or causes an attempt to be made, even without success, he is to be punished as if he had succeeded. In the passage [of Gregory] which follows, reference is made to punishment after examination by the Eternal Judge, and therefore I do not inquire into this point, but leave it to the theologians. I emphasize, however, the phrase

"*habere potestatem appetit ut affligat*" because it may be useful to you.

§ 7. It should be specially noted that an act of tyranny consists specifically in the oppression of one's subjects. He is called a tyrant who impoverishes and brings suffering upon his own people, as has been said. The acts of a tyrant are of many kinds, as has been said. This is enough by way of comment on the passage [of Gregory].

CHAPTER III

[The closeness of Bartolus's reasoning is well shown here. In the previous chapter he has dealt with the various forms of usurped power in those units of population which have a regular, established government. But he was evidently familiar with cases of usurpation over groups which had no such recognized governmental mechanism (*jurisdictio*). His *vicinia* may be compared to one of our city "wards," i.e. a district within a larger political unit, set off for convenience of administration but having no independent governing system of its own. Here, says Bartolus, there cannot, properly speaking, be a tyrant — unless, indeed, the "ward boss" becomes so powerful that the lawful government cannot control him, "as the nobles are now doing at Rome." In that case he properly comes under the definition of a tyrant so far as that section of the *civitas* is concerned.

The same principle applies to outlying dependencies of a city. If in such a region a usurper becomes strong enough to resist the regular administration of the city officials, then he becomes a tyrant. In other words, tyranny is a *de facto* condition and must be dealt with as such.]

§ 8. I now inquire whether there can be a tyranny in a neighborhood (*vicinia*)?

My answer is: No, as is evident from Gregory's words, for he makes no mention of this kind of tyranny. It may also be shown by reason. The rule of a tyrant is the very worst kind of rule, as has been said, for it is directly opposed to the type of rule which is the best. A tyrant is a governor, though not according to the law, and it is, therefore, evident that where there is no government the word "tyrant" does not apply. But now in a neighborhood there has never been a king or any kind of government with jurisdiction, and hence there can be no tyrant. A neighborhood is not ruled by a distinct government but by the ruler who governs the whole community (*civitas*). Even if there be in a neighborhood certain specially powerful persons who oppress the rest, yet they are not (§ 9) tyrants, but simply stronger persons; unless, indeed, we suppose that in a neighborhood or in a certain district someone may gain such power that the general government can do nothing there without his consent — as the nobles are now doing at Rome — then he is rightly called a tyrant in that part of the city.

On the other hand it may be said that a city is generally divided into quarters or parishes, in each of which there are persons called *capitanei* or syndics who preside over the affairs of that section of the city. Now certainly it would seem as if where there is a government there might be a tyrant, but I reply that such persons have no right of jurisdiction even though they receive a certain power of restraint for the purpose of exacting fines, as in the case of crimes which they report. They are rather to be called the servants of rulers than actual rulers themselves. Therefore they cannot be considered tyrants but only as persons with a higher degree of power in virtue of their offices. They may inspire fear, and if they do this they fall under the above-mentioned clause: *si per impressionem.*

Furthermore, the evil doings of the powerful in a neighborhood can promptly be checked by the government of the city, and on this account they are not to be called (§ 10) tyrants. This explains why the blessed Gregory made no mention of tyranny in a neighborhood. By the same token I say that in manors, villages or encampments, outlying dependencies (*comitatus*) of a city, where there is no jurisdiction either in law or in fact, there can be no tyrant, even though there be one person stronger than the rest. But if one should be strong enough to rebel and to hold his own against the city, so that crimes could not be checked there by the city officials without great difficulty, then he might become a tyrant.

CHAPTER IV

§ 11. I inquire next whether there can be a tyrant in a family (*domus*). It would seem as if this could not be, because, as has been said, no jurisdiction is exercised there. But Gregory says the contrary. In my opinion the *paterfamilias* may be said to have a certain degree of jurisdiction in the house, since he declares the law there in regard to his children and his slaves. So also the elder of the family has a certain kind of jurisdiction over his wife, his children and his slaves, and even the eldest brother or the uncle over those in the house who are under twenty-five years of age. If, then, one governs there contrary to law he may properly be called a tyrant. So that, if any one of the family should make a contract or any other engagement through fear of that person it would be null and void as if it were made through fear of a tyrant. If, however, an elder person has within the house a younger brother or brother's son over twenty-five years of age, the elder does not have that kind of power over him, since he is able to govern himself. In that case fear alone is not

sufficient, but there must be proof of fraud or a general state of fear (*metus communis*), and the acts of such a junior cannot be annulled. We may also call the abbot of a monastery a tyrant if, being a usurper (*intrusus*) he rule there contrary to law; or if, though his title be a valid one, he rule tyrannically.

CHAPTER V

§ 12. I inquire now how many kinds of tyrants there may be in a commonwealth. I reply that from what has been said it is evident that a tyrant is one who rules not according to law (*non jure*), and since there are various ways of ruling contrary to law there are various types of tyrants. Some are open (*manifesti*) tyrants, others disguised (*velati*), others concealed (*taciti*). One may be openly a tyrant by reason of his conduct, another by defect of title. So in the same way a disguised tyrant may be such in practice or by defect of title. As to this let us inquire further.

CHAPTER VI

§ 13. I ask: What is a manifest tyrant by defect of title in a commonwealth? My answer is: One who rules there openly without a lawful title, as is evident from our previous definition. This may happen in divers ways. First, if the city or fortified place (*castrum*) in which he lives has *not* the right to choose its own ruler, and one acts there as ruler, he is a tyrant because he is ruling contrary to law, and he is subject to the *lex julia majestatis*. The same is true if an official, after his term of office has expired, continue in it against the will of him who has the right of decision (*ad quem spectat*) [probably the overlord].

§ 14. But if we suppose that the town or fortified place *has* the right to elect its own ruler and that the community has given to him some degree of jurisdiction, even though there is no doubt that this was done under compulsion; since what is done through fear is valid, even though it be [later] annulled by an action "*quod metus causa*," therefore he is meanwhile lawful ruler (*rector*), and it cannot be said that he is a tyrant by defect of title.

§ 15. Now we must consider in what ways the violence or cause of fear is applied against the people. I answer: When an army is led against the city without the consent of the overlord; or if the city is taken by assault with the help of foreign troops. If, however, one procures his election as ruler through a tumult or revolt by the help of citizens of the place itself, then the case is more doubtful, because it looks as if he were chosen by the dominant classes, as shown by the very fact that he has prevailed. In this case it must be said that he is not a manifest tyrant by defect of title but [a ruler] created by violence and fear.

But now supposing that one seizes upon the fortifications of a city with a moderate force and that through this occupation a reasonable fear falls upon the people? Certainly he is made ruler through fear. Or supposing he prevails, not by the help of the ruling class but through those of low estate, as commonly happens. Certainly in this case he cannot be said to be made ruler by the more important elements of the people, since men of that sort cannot be called to be *decuriones* or councillors.

So also, if he has done this with the help of people from the suburbs, or if with a moderate force of citizens he has stirred up a tumult while the rest were scattered in their own houses, — for a united few are more than equal to a divided multitude, — certainly this would justify a state

of fear among the people. Or, supposing that at the outset with his moderate force he has driven out or killed one or more of the leaders of the city, on which account the people were justly alarmed; since it is written: "I will smite the shepherd, and the sheep shall be scattered." That such fear among the people is a reasonable fear is proved by many examples from history, especially in the book of Judges, and I say that, in the same way, if a ruler is chosen by means of a tumult or unlawful uprising he is a manifest tyrant by defect of title. And even if thereafter he rules well, still he is a tyrant — that is unless he be later legitimated [by an overlord].

That the above statement is true appears from this: that if he brings charges irregularly (*indebite*) against certain citizens and they are driven into exile at the time of his election, they may be considered as held in contempt because they ought to have been duly summoned (*vocari*). So that an election held while they were in contempt is invalid, and thus he is a manifest tyrant by defect of title.

From what has been said, therefore, the method of determining who is a tyrant becomes evident.

CHAPTER VII

[We come here to Bartolus's main interest: to establish, as far as may be, the continuity of legal obligations under changes of administration. The acts of a manifest tyrant *ex defectu tituli* are *ipso jure* invalid, and so are the acts of officials appointed by him. Those of officials chosen by the community itself *patiente tyranno* are also, in Bartolus's opinion, invalid on the general principle that even such officials could not be freely chosen while the tyranny lasted. On the other hand even a ruler who has won his office by compulsion is better than no ruler at all.

§ 17 presents some rather puzzling questions. The text appears to be corrupt, and I have done what I could to bring it into harmony with the general tenor of the author's opinions. Mr. Woolf has, perhaps, done wisely not to attempt a complete translation. The point seems to be that no tyranny however manifest can be pleaded to impair the obligation of all contracts. The test of an obligation is whether it was incurred through the regular operation of courts or under some form of compulsion by the tyrant. In the former case the obligation is valid, in the latter, *metus causa* may be pleaded as ground for release of the obligation. Here as elsewhere the practical Bartolus seems to base his opinion somewhat upon the duration of the tyranny. The longer it lasts the stronger grows the presumption of validity for its acts; otherwise the stability of the commonwealth would be proportionately endangered.]

I inquire whether acts done by such a manifest tyrant by defect of title or during his administration are valid. § 16. This question has several branches. I ask first as to the validity of those acts which are done by way of jurisdiction. It is certain that the acts of the tyrant himself, as of one having the right of jurisdiction, are *ipso jure* null and void. The same is true of the acts of officials appointed by him, and for the same reason. § 17. But there is doubt as to things done in a city where a tyrant has been elected by other officials who were chosen by the community itself without opposition on the part of the tyrant. My opinion is that these acts are not valid, in accordance with the above-mentioned statute which says that whatever is done in the time of a tyrant is *ipso jure* null, and this is also in accordance with reason. For no official can be freely elected in a city where there is a tyrant, but the choice seems to be made by the tyrant himself.

Authority for this might be found in the decretal *de praescriptione* where it is said that in time of schism no [lawful] acts can be performed and no prescription runs. Now the period of a tyranny might perhaps be called a time of schism; for the tyrant breaks in sunder the unity of the whole state and thus evidently falls under the *lex julia majestatis*, as has been said. On the other hand in the decretal above cited it is not said that all acts are null except legacies made in favor of churches, and therefore all other acts appear to be valid. Besides injustice would [otherwise] be done; for if a tyranny should be greatly prolonged, shall we say that all suits and legal transactions in their courts shall be of no effect? It would seem to be a hardship in the case of suits brought against rebels or enemies of the tyrant, if such suits were to be *ipso jure* null. For no man is bound to appear before a judge notoriously hostile or in a place notoriously unfavorable to him.

§ 18. But some ordinances, judgments and legal actions have to do with persons living within the city, and here there is rather more uncertainty. We may compare the case with that of a free man held by another *sub patria potestate vel dominica* and, while under such control, performing some conscious act. Thus in the present case a people held under the power of a tyrant does certain things which officials chosen by the people would have done in any event, even if they had been free to act for themselves — as for example the decision of contentious cases which the tyrant allows to go through the regular judicial process. Such acts are valid, because they are done voluntarily.

There are certain other acts which would not have been done unless there had been a tyrant, and these are not valid because they are done, not voluntarily but through

fear of the tyrant. For this I refer again to the decretal *decernimus*. For it is certain that, if there were no tyrant, action against churches could be taken only by regular officials and therefore such acts are declared [in the decretal above cited] to be absolutely without foundation on account of the character of the actors. These matters were treated as if we were speaking of a minor who has done something which a prudent person of mature years (§ 19) would not have done. I am supposing also that if in trials injury is done by judges to persons whom the tyrant has under suspicion, restitution will be made to them on general principles. I am supposing further that the time for demanding restitution runs from the end of the tyranny, as in other cases it runs from the end of an absence or with the coming of age.

§ 20. Our second inquiry has to do with the effect of contracts, and these may be of many kinds. If the city makes a grant or a concession to the tyrant, such a contract is *ipso jure* null. For, if a promise made by a captive to the person who has thrust him into prison is not valid, so also a promise or other contract made by a city with the tyrant who holds it captive and, as it were, in prison is not valid, since a tyrant is said to hold the people in servitude. We can also say that such contracts are null in accordance with a provision of the civil law. For if contracts of this sort are annulled when made with a just ruler, how much more in the case of a tyrant ruling unjustly. Sometimes contracts are made between a tyrant and an individual under his power, and these are also null or may be annulled as being caused by coercion. Especially if the tyrant causes property to be sold to him by coercion; for in that case he falls under the imperial law which compels him to restore the property. Coercion is proved if the tyrant would not allow the property to be

got together or threatened the possessor if he refused to sell, or sought other pretexts or made repeated demands upon one who did not wish to sell; for the request of a superior is a command.

§ 21. A contract made by a tyrant of this sort with foreigners, which subjects or obligates the city to another person, is invalid *ipso jure*. If he subjects the city to another person, even though he makes an agreement favorable to the city, he is held to be acting tyrannically, and the contract is invalid, as in the case of a fraudulent possessor of an inheritance. A contrary opinion is held by Hostiensis,[1] who maintains that such contracts are valid in so far as they are favorable to the city, as we say in the case of a ward. If, he says, a contract is partly favorable to the city and partly unfavorable, then, if there are separate clauses it is valid in so far as it is to the advantage of the city. But if there are many clauses connected together, then, if the city rejects it in so far as it is unfavorable, it cannot accept it in so far as it is favorable. I think this opinion is true enough and is good law in the case of a contracting party who knew that the man was a tyrant; (§ 22) for he has no remedy. But, if we suppose that the contracting party was ignorant of the tyranny, then he has a remedy by restitution.

§ 23. But if the tyrant does not make a contract, but sells property in separate parcels (*distrahit*) either himself or through his officials, receiving payments due to the state, are those who pay released from their debts? On this point it must be said that if they are debtors to the state in virtue of an agreement made with the tyrant himself it would seem as if they ought to be quit in accordance with a provision of the civil law. But that pas-

1. Henry, Cardinal-Bishop of Ostia (d. 1271). *Commentum meum super decretalibus*.

sage refers to the case of a contract made with a robber in his own name, while here it is a question of a contract made with a tyrant in the name of the state. Nevertheless it seems that the debtor may be released from his obligation as if it had been made with a son [under *patria potestas*] or with a slave.

Sometimes a debt is paid for which the debtor was obligated to the city in some other way than by an act of the tyrant, and in that case it would appear that the debtor is not released. This is well supported by Innocent *de electione, c. nihil* where the statement seems to be that one who makes a payment to a usurping official without lawful title is not quit.

My opinion is that the above rules are sound when the debt is paid to a robber or to a usurping official or to a tyrant who is not in a position to inspire fear in the debtor or to threaten him with harm — as, for example, if the debtor were of another city. If, however, the tyrant be able to inspire fear or to apply force or threats in virtue of the jurisdiction he is exercising — though this be only a *de facto* jurisdiction — since the debtor is subject to him, he is released if he pays the debt to the tyrant or to his agent. This is also in accordance with reason; for through violence applied to a debtor an injury is done to the city in whose debt he stands, and [thus] the tyrant is oppressing the city and the fault may be said to be his. If the substance of a debt due in kind is destroyed through the fault of the creditor, the debtor may be released by way of exception; but if it be due in money, then there is little doubt as to his right of release *ipso jure*.

§ 24. But perhaps it may be said that if a tyrant of this sort be in such a position that the sum paid to him may readily be recovered, then no ground for exception should be allowed to the debtor. But, as I think, this distinction

applies to the case where violence is used against a person to the injury of that person, but not where the injury is done to his creditor [that is to the city], for the reasons (§ 25) stated. I assume also in what I have said above that one must allege fear of the tyrant, and for this it suffices that the tyrant have made a law or given public notice ordering the payment to be made. For, if one has made a payment in view of such notice [this is evidence that] he had reason to fear violence, and that is sufficient. From what has been said it is evident that if collectors or other officials appointed by the tyrant collect money and afterward hand it over to the tyrant himself or dispose of it according to his orders, they are not to be held liable.

§ 26. Sometimes a tyrant of this class neither makes contracts nor sells property in parcels, but suffers property of the community to waste or its rights to be lost by prescription. In that case I think that no right of prescription runs against the community. I say also that if the tyrant exercises any jurisdiction which properly belongs to the city itself, claiming that his right derives, not from the city but from some other source, then, as far as he himself is concerned, he would seem to be making use of another's name, but, as far as the city is concerned, to be using his own name, if by that use the city retains its right.

CHAPTER VIII

§ 27. In this eighth chapter I take up the question of the tyrant *ex parte exercitii*, that is, as shown by his conduct. Even though his title be sound he is none the less a tyrant. I say that he is a tyrant because he rules "tyrannically," that is, his actions are not directed toward the common good but to his own advantage, and that means to rule unjustly — as is the case *de facto* in Italy. But

now, that the method of proof may be made more clear, let us come down to specific acts, which for the most part (§ 28) consist in the oppression of subjects.

These acts are clearly enumerated by the famous Plutarch in his *de regimine principum*[1] under ten headings. First, it is the practice of tyrants to cause the ruin of powerful and distinguished men of the community, so that they cannot rebel against them; for we see that they murder even their brothers and blood relations, and that is an indication of the very worst kind of tyranny. Second, they banish their wise men, lest they discover and attack their iniquities and stir up the people against them. Third, they not only cause the ruin of study and education, but they prevent the training of capable men because they are always in fear of detection by wisdom. Fourth, they forbid private associations [*specialitates*] and public meetings, even lawful ones, through fear of uprisings. Fifth, they keep a multitude of informers about the place; for the man who is conscious of wrongdoing always believes that people are speaking ill of him and plotting against him, and for this reason he gladly listens to such informers. Sixth, the tyrant keeps the community in a state of division, so that each part may be in fear of the rest and so may not rebel against him. Seventh, the tyrant takes pains to keep his subjects poor, so that they may be fully occupied with getting their living and have no time for plotting against him. Eighth, he provokes wars and sends his fighting men abroad to prevent them from hatching plots and because through wars men are

1. I have been unable to find any work of Plutarch bearing this title. The whole of § 28 is an almost literal reproduction of a passage in Aegidius Romanus [Egidio Colonna] *de regimine principum*, book iii, pt. 2, c. x, which is a condensed summary of Aristotle's *Politics*, book v, c. xi. That Bartolus was acquainted with Aegidius is proved by his reference in § 44 to the very passage which he here ascribes to Plutarch.

kept poor and withdrawn from study, which is what a tyrant desires. Also in this way he keeps soldiers in training for his own use in time of need. Ninth, he makes up his bodyguard, not from citizens but from foreigners, for he stands in fear of his own countrymen. Tenth, when there are factions in the city he always attaches himself to one of them in order to break up the other.

§ 29. Such are the opinions of Plutarch, and now let us examine them.[1] First: To cause the ruin of specially capable persons, even of a brother, is a tyrannical act. This is true unless it be for a just cause, as, for example, in the case of Romulus and Remus. For who can doubt that if any powerful person in a city creates disturbance or sedition he ought to be banished by any just judge? If then the cause be a just one the act is not that of a tyrant. Second, the same rule applies to the ruining of wise men, if the cause be just. Third, the destruction of study and education: I understand this to apply to such pursuits as are suited to the [given] community. If, however, a ruler breaks up such pursuits as are not adapted to the community, this is not the act of a tyrant. Fourth, that assemblies, even lawful ones, are not permitted: If

1. The practical quality of Bartolus's reflections is nowhere better shown than here. He accepts all of the articles in "Plutarch's" definitions of tyranny, but his own observation has taught him that most of them need some modification in practice. To apply them to the existing conditions in the Italy of his day would cause as many evils as it would cure. What to do in the given case is, he thinks, sufficiently indicated in the preceding paragraphs. It is always a question of balance between the evils of tyranny and the still worse evils of public disorder. The right of assembly, for example, is precious to a free republic, but if assemblies become nests of sedition they should be suppressed. Proscription of personal enemies is a hideous form of tyranny, but if the case against the proscribed person is founded in justice it may be worthy of approval — and so on through the list. The principle is sound; it is in the application of it that the subtlety of the lawyer finds scope for exercise.

an offence is once committed by them it is certainly right to dissolve them; for I have known persons to come together under a pretense of religion and straightway to throw the town into confusion. We must, therefore, judge by the kind of persons assembled whether it is the act of a tyrant to break up a lawful assembly. Fifth, the keeping of informers in a city: This may be the act of a just ruler if it be done for a lawful purpose. A good ruler may employ informers to punish crimes and other offences in the community; but a tyrant uses them against those who may injure his own position and therefore his act concerns only his own advantage. Sixth, that the tyrant strives to foment divisions in the city: This is a tyrannical act, seeing that it is a primary duty of a just ruler to keep the peace among the citizens. Seventh, deliberately keeping the people in poverty is plainly an act of tyranny; for the good ruler cannot properly take anything for himself nor afflict his subjects with burdens upon either their persons or their property. Eighth, that incitement to civil war is in itself (*simplicite*) a tyrannical act: Sometimes a civil war may be a just war, but an unjust war is an act of tyranny pure and simple. Ninth, maintaining a bodyguard of non-citizens may be a just measure; for a people may be so uncontrollable and so obstinate that the ruler, just though he be, cannot rely upon them. This is especially apt to occur in a newly recovered territory, even under a just master. For this reason emperors sometimes drove out the inhabitants of a city and settled them elsewhere. So also we sometimes see good rulers building fortifications or collecting munitions in a city where their rule is a lawful one. But such things, in the case of a just ruler are due to some exceptional cause, whereas with a tyrant they are of ordinary occurrence. Tenth, adhering to one faction and oppressing another is an act of tyranny

pure and simple, since the final purpose of a commonwealth is the peace and good order of the citizens — as has been said.

§ 30. All the above, then, are indications whereby a tyranny can be proved, and especially these two: the promoting of divisions in the community and the impoverishment of citizens and abusing them in their persons or in their property. All this has been abundantly shown in the preceding chapters. From what has there been said it is evident what a tyranny is.

CHAPTER IX

[Now, supposing the fact of tyranny to be established, what are the legal means for getting rid of it? The most obvious answer is, of course, through some action of the overlord to whom the tyrant is technically responsible, and Bartolus's function is to describe the legal basis for such action. This he does in §§31–33 by references to formulas of the Roman public law.

As a matter of fact, however, such a rigid application of Roman discipline was impossible in the existing conditions of Italian politics, and Bartolus gives us here the clearest illustration of the closeness of his touch with the political actualities of his day. The tyranny of Taddeo Pepoli at Bologna was one of the most marked cases of *defectus tituli*. He acquired and held his power by violence, but his rule of ten years (1337–1347), was, on the whole, a benefit to the community. After three years the papal government in its capacity of overlord found it advisable to accept the situation and "legitimated" the tyrant by creating him "Vicar of the Holy See." The defect of title was thus removed, and the responsibility for a proper *exercitium* was technically assumed by the Papacy. The motive of the emperor Charles IV in distributing titles

among the tyrants of Lombardy is obvious. He thereby recouped himself for the heavy costs of his senseless Italian expedition (1355) and fancied he was buying support for his fantastic schemes of imperial grandeur. The Legate in the Mark of Ancona is undoubtedly Cardinal Egidio Albornoz, who developed the policy of adopting local tyrants as papal vicars into a regular system. His motive is clearly outlined by Bartolus, who had every opportunity to study this interesting experiment in practical politics at close range. He "threw over his less valuable cargo in order to save the more precious." Yet the jurist holds in reserve the fundamental principle of right: If the legitimated tyrant continues to do the works of a tyrant, he is a tyrant still, and is to be dealt with accordingly.]

§ 31. *Qu.* In the case of a count, duke, marquis or baron whose title is regular but who is proved to be a tyrant by his conduct (*exercitio*) what action ought his overlord to take?

Resp. He ought to depose him; for he who acts in this manner holds his people in servitude, and it is the duty of an overlord to deliver the people from servitude. § 32. But under what law do those fall who rule without a clear title? It is certain that they are subject to the *lex* (§ 33) *julia majestatis*. As to the ruler who has a clear title but is shown to be a tyrant by his conduct, I say that, because he oppresses his subjects in their persons he falls under the *lex julia de vi publica*. Also, because he encourages factions in the community and thus prevents the courts from acting regularly, he falls under the same law *de vi publica*. Further, by imposing new burdens and new taxes he incurs the penalty of the same law, which is deportation. Thus he forfeits all rights under the civil law and, as an infamous person, loses his dignities and his

offices. He also falls under the *lex julia de ambitu*. Perhaps also he is liable to the penalty of death. I say, further, that a person exercising such a tyranny, if he conspires against the prince or his officers openly or secretly, is *ipso jure* a traitor to the Empire and forfeits his office, according to a novel of the emperor Theodosius.

CHAPTER X

§ 34. *Qu.* What shall we say of a policy which we have seen followed by the Supreme Pontiff, by the Emperor and by legates [of the Papacy]? Certain persons whom they well knew to be tyrants and whom they had [tried] to repress by forcible means, they have created bishops of the Holy See or vicars of the Empire, as, for example, Clement VI did at Bologna with Taddeo dei Pepoli and his sons. The same thing was done by the emperor Charles [IV] with the tyrants of Lombardy, and the same again by a legate in the March of Ancona with many tyrants.

Resp. It is to be presumed that such great lords would not do these things without urgent cause, and such cause may be of two kinds: — First, some great and pressing necessity which they have to meet. For, as a careful sailor throws over his less valuable cargo in order to save the more precious, and as the prudent house-father makes a choice of his more valuable goods for rescue [in case of danger], so a just overlord comes to terms with a tyrant and makes him his vicar in order to accomplish great and pressing reforms. The second reason may be consideration for the subjects of the tyrant. For, as physicians who follow Nature, when a disease cannot be cured without great danger to the patient, strive to support Nature and prevent the disease from going any further and thus Nature comes to her own assistance — such is sometimes

the policy of a just prince, when, seeing that a tyrant cannot be deposed without great injury to his subjects, he makes the tyrant his vicar for their sakes, so that being less in fear he will be less oppressive to the people. Meanwhile some accident may occur by which the tyrant may be deposed in accordance with justice and without injury to the people. Yet, in spite of the validity of their titles, these tyrants are none the less tyrants if they continue to do the tyrannical acts above mentioned, for such acts do not enter into the commission with which they are entrusted.

CHAPTER XI

§ 35. *Qu.* Whether prosecutions brought by a tyrant who has a good title are valid? I say, that he either prosecutes exiles who have rebelled against himself, in which case the process is not valid, since no one is bound to appear before a notoriously hostile judge, as was said above; or else he proceeds against his fellow citizens, and then the process is valid until the tyrant is removed together with his office.

§ 36. But what if a process has already been begun in consequence of which a verdict is to be pronounced [by his superior] against the tyrant, do his acts performed while the case is pending and before judgment is pronounced hold good? I reply: — If the accusation be of some crime for which he would *ipso jure* be deprived of his office or would be declared a slave or an infamous person, then his acts after the trial has begun are not valid. But if the case is such that he would be deprived of his office only in consequence of the judgment to be delivered, then his acts meanwhile are valid, because meanwhile he retains his office. In the same way, if a contract be made or terminated with the tyrant, the transaction

is valid, — it being understood that the agreement does not bring the city into subjection, — as I will explain later. I say also that if one is under the power of a noble person and has a lawful title, then, even though he be a tyrant in his conduct, he is, nevertheless, to be regarded as a privileged person so long as he is allowed to hold his office; — not so, however, if his title be defective.

I say further that if one having a good title becomes a tyrant through his conduct and causes an increase [or extension] of his power to be granted him by the people, such power would not be valid, on the assumption that the people would have acted from fear — as was said above. Also, any contract which he may have made involving the subjection of the city or laying any burden upon it would not be valid; for he is not acting as lord of the city if he deprives it of its liberty.

CHAPTER XII

[Up to this point Bartolus has been speaking of open, manifest tyranny. Now he takes up the more subtle problems of a tyranny which is either veiled (*velata*) or implied (*tacita*). Tyranny may be concealed either by extending the tenure of a properly conferred office beyond the term for which it was granted or by converting a subordinate office into one of a higher grade. The type of tyrant here presented is, perhaps, the most frequent and the most puzzling as a legal problem. How can a tyrant be convicted if he "keeps himself in retirement, does not act in person, and seldom appears at the City Hall, while the public officials obey his agents and his written orders"? Here is the perfect picture of the "party boss," as Bartolus knew him in the Italian city-states and as we know him in every corner of our "free republic." It is the "in-

visible government" of which we hear so much in our public prints, always silent but always alert to take advantage of every shift in the political breeze. But how is it possible to "get" such a concealed tyrant? Bartolus perceives the extreme difficulty of obtaining conviction by evidence on oath and therefore declares his opinion that proof may properly be drawn from the facts of the case. His illustrations are illuminating. If land is claimed as a deposit from a river, although no person has seen the process of this deposit going on, still the fact that it is there is sufficient evidence that the river has brought it. And, though no one can perceive the generation of a child, the fact of its birth under given circumstances is good evidence of its parentage. So the fact of party violence and oppression in a city where one person is notoriously stronger than the rest is proof enough that such acts proceed from him and that he is therefore a tyrant.]

§ 38. I now proceed to inquire in regard to the disguised or concealed tyrant, that is one who under some cover rules over a community contrary to law. This cover may be of two kinds according to the title which he causes to be granted to him. We have to remember that a tyrant is properly to be compared to a king, as we have said above. But it is an essential part of a royal power that it be perpetual, also that it have complete jurisdiction, as appears in our previous chapters. Now from these two qualities have come two ways of concealing a tyranny. First, that a person causes a certain jurisdiction to be granted him and then, after a time, to be granted to him anew. Such a jurisdiction seems to (§ 39) be rather that of a judge than of a tyrant. On this point I say that although he have jurisdiction and cause it to be conferred upon him in his own city, yet he has no title to it; for no person can have a jurisdiction of this sort. He has not

an *imperium merum et mistum*, but only a simple (*nudam*) jurisdiction. And so what we said above about the tyrant *ex defectu tituli* holds good of such an one, since he receives no title.

§ 40. But if we suppose a community in which the people, either by privilege or by custom, have an unquestioned right to confer power, and therefore a title granted in the first instance would be valid, then we have to consider whether the man becomes a tyrant from the mere fact of renewal or extension. This would seem to be the case by common law, for such a renewal is not lawful — nay, he falls under the *lex julia de ambitu*. If, however, we suppose that the power of the people is so great that it can dispense from that law, then we should have to inquire whether during the first period of his rule he had made himself so strong that the people were forced to elect him for a second term. In that case, since he would be elected through fear, he would indeed be a tyrant *ex defectu tituli*. But, if he be freely elected and afterward become a tyrant through conduct, then I give the same opinion as above.

§ 41. The second cover is that a tyrant may cause some title to be conferred upon him which conveys little or no right of jurisdiction: — for example, that of *Gonfaloniere;* or he may have the policing of the city entrusted to him, or may have himself made a captain of mercenaries or of the militia. In such cases he is not [properly] called a tyrant; for a tyrant must have complete jurisdiction like a king. He cannot be called a prince (*principalis*) who has no jurisdiction or only a moderate degree thereof. Certainly he is not a tyrant by reason of his title. But if through this function he attains such power that he manages the affairs of the city as he pleases and the [city] officials obey him as their master, then I say, if he acts

tyrannically or causes others so to act, he is a true tyrant. For his orders are obeyed in the city like those of a prince, and yet he is not ruling according to law, since he is acting tyrannically, and he is therefore a tyrant.

But how can this be proved when a tyrant of this sort keeps himself in retirement, does not act in person, and seldom appears at the City Hall, while the public officials obey his agents and written orders? I answer that the proof is a difficult one since when things of this sort are done no witnesses can be called. In view of this a certain decretal ordered in a specific case that the proof should be by the oath of some person; but I do not think that this is a sound general principle; for in the decretal the juror is not affected by any preceding circumstances. Therefore I think the proof here must be secured in some other way.

We must consider that although some actions cannot be directly proved of themselves, yet they are capable of proof. I have shown this in my treatise on Alluvial Deposits. Though these deposits cannot be perceived while they are forming, nevertheless, from the fact that they have been formed it follows of necessity that the river has brought them. So also, though the generation of a child is not perceptible it is considered sufficient proof if it can be shown that it was born in a certain house of a woman cohabiting [there] with a [certain] man. For, while a proof would be convincing to the judge, these facts incline him at once toward a conviction. So is it in the present case. If it can be shown that there is discord in the city, one party being driven out, and that crimes and misdemeanors occur without punishment and that the citizens are oppressed and other things of the sort happen, these all come under the head of those tyrannical acts of which we have spoken above.

Further, if the person having the title is the most powerful man in the city and if it is a matter of common report that he causes the above mentioned things to be done, then, I say, a tyranny is sufficiently proved; for these acts could not proceed from anyone except from that most powerful person. Taken in connection with common report they are sufficient to lead the judge to a conviction, and this agrees with what we have said in the case of one ruling according to law — namely, that it is enough if it be so held and reputed.

§ 42. But now, are acts passed during the time of a tyrant of this class valid?[1] In reply I give the same opinion as in the case of a manifest tyrant who causes things to be done through officials elected by the community, [namely that they are not valid. See § 17.] This is true when the greater part of the citizens are oppressed or burdened with taxes or kept in a state of discontent. If, however, some are held in exile or some within the city are badly treated by exclusion from the offices, while in other respects the city is well governed and the common good well cared for, then the person having a title of this sort or some similar distinction would not be a tyrant in the plain meaning of the word, since the common welfare is well looked after — which is the very opposite of a tyranny. But in respect to external relations or dealings with the [personal] enemies of the man thus superior to

1. As to the validity of the acts of such a "veiled" tyrant, Bartolus makes one important distinction. In general he would apply the same principles which he has laid down in the case of a manifest tyranny. If, however, the alleged tyrant rules the community as a whole justly and wisely, but oppresses his personal enemies, whether these be his fellow-citizens or outsiders, then he is to be judged differently in these two sides of his administration. In other words, it is possible that a man may at the same time be a tyrant and not a tyrant.

others, even though he govern the state well, I think we should say the same as if he were a true tyrant. There is no reason why one should not be called a tyrant as to outside territories and a just ruler within the community.

§ 43. For this reason we must take into account that, just as an individual is seldom found who is free from all bodily defect, so it is a rare thing to find a government which is wholly devoted to the common good without any admixture of tyranny.[1] It would be a divine rather than a human condition of things if rulers had no regard for their own interest and cared solely for the common (§ 44) welfare. We call that a good government and not a tyranny in which the common good prevails over the private interest of the rulers. This is laid down by Aegidius Romanus in his *de regimine principum*, l. iii, c. 11,[2] and it ought specially to be borne in mind when we are considering how to prove whether a certain person is a tyrant.

§ 45. A third form of concealment is when one allows no title to be given him in the city but so manages all its affairs that everything goes according to his will. That such a man is a tyrant can be proved in the way described immediately above, namely that he is the most powerful person through having the greatest following. Also because it is a fact made notorious by common report and because he causes the aforementioned things to be done. It is of great importance [for the proof] that during the time of the tyranny things should occur by which the

1. In this paragraph our jurist allows himself the only departure from a strictly juristic attitude. After all, he says, since no individual is perfect, how can we expect that any government will be solely devoted to the common good with no thought of personal advantage to the rulers? The most we can ask is that the good of the community shall on the whole, prevail. Bartolus is no "idealist."

2. See note to §§ 27–28.

evil character of the tyrant may be made plain and the method of proof be made more clear.

As to acts done in the time of a tyrant of this type I say what I have said just above. Whether there can be a tyrant in a neighborhood or in a certain quarter of a city I have already given my opinion.

EXPLICIT

IV

THE TYRANNY OF FRANCESCO DEI ORDELAFFI

IV

THE TYRANNY OF FRANCESCO DEI ORDELAFFI

Introduction

AS an illustration of the type of Italian ruler which is the subject of Salutati's *De Tyranno* and of Bartolus' *De Tyrannia*, I have selected the story of Francesco dei Ordelaffi, Tyrant of Forlì.[1] The dramatic incidents of his career are closely connected with the mission of the Cardinal Legate Egidio Albornoz, briefly sketched in the Introduction to the *Constitutiones Egidianae* (*infra*, pp. 197–214). Of all the local tyrants of the Romagna, Orde-

1. Bibliographical Note.

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Bonoli, Paolo, *Storia di Forlì*. Second ed. 2 vols. Forlì, 1826.

Memoriae Caesenates auctore Giov. Battista Braschi. Rome, 1738. Portraits (?) of Fr. Ordelaffi, Cardinal Albornoz, and Madonna Cia.

Statuto di Forlì. Ed. Rinaldi, Evelina. Rome, 1913. Published 1359, with the approval of Albornoz. In general conformity with his principles as shown in the *Constitutiones Aegidianae*, but with local freedom.

Statuta Civitatis Forolivii. Forlì, 1615. Published by Julius II, 1504. Show change of relation to the Papacy. Buonaccorsi, Marchesi; *Memorie Storiche dell'Academia de' Filergiti della Città di Forlì*. Forlì, 1741.

laffi was the most persistent in his opposition to the temporal sovereignty of the Holy See, and the last to give way before the overwhelming forces of the great cardinal.

To use the most comprehensive word in the political vocabulary of his time, he was a "Ghibelline" in all the meanings given to that term by our Bartolus in his treatise *De Guelphis et Gebellinis* (*infra*, pp. 273–284). He was Ghibelline by inheritance from a long line of ancestors who had held feudal castles and cultivated the surrounding acres in the hilly country on the eastern slope of the Appenines. The connection of his line with the government of Forlì is traced by local tradition as far back as the empire of Berengar of Friuli (died 924), who is supposed to have invested the first Ordelaffi with the signory of that place. The title "Capitano" dates from the eleventh century. Members of the Ordelaffi family figure prominently in the list of Forolivensians who joined the ranks of the crusading armies. In all the factional quarrels of which Forlì had its full share, the family invariably appears, for good or evil fortune, on the Ghibelline side.

Francesco was a Ghibelline also in virtue of his citizenship. Forlì, in spite of its theoretical subjection to Roman overlordship, was persistently Ghibelline in its sympathies, and displayed this sentiment whenever the great issues of Italian politics as between imperial and papal policies came to the front. At other times it followed the general drift by grouping all varieties of local interests, family alliances, family feuds, economic rivalries, or what not, about the two conventional party organizations, and fighting it out on those lines. And, finally, he was Ghibelline by choice. His personal quality, his capacity for leadership, his unscrupulous employment of every means to gain political power, all combined to throw him into

the opposition against the Roman overlordship. His hope of success lay in his common interest with the feudal lords in his immediate neighborhood, especially with the rulers of Forlimpopoli, Cesena, Faenza, and Imola; but his diplomacy reached out beyond this narrow circle as far as the Malatesta properties at Rimini and in the March of Ancona.

The "tyranny" of Francesco began with the death of his brother "Cecco" in 1331. In the following year he was driven from power by the papal legate, Cardinal Bertrand, but was so successful in his intrigues with the neighboring Ghibellines that in 1333 he was able to make his way into the city concealed in a load of hay, and placed himself at once at the head of a Ghibelline uprising against the Legate and his Guelph officials. Within two years the control of the Roman administration throughout the greater part of the Romagna was completely broken, and Ordelaffi found himself established, not only as ruler of Forlì, but as actual head of a provincial Ghibelline league. This situation lasted with little change for nearly a quarter of a century. The absence of the papal overlord in France and the general inefficiency of his agents in Italy combined to render ineffectual all attempts to break the persistent opposition of the local lords.

The crisis came with the mission of Egidio Albornoz, by far the most competent of the long series of papal legates sent over from Avignon to struggle with this almost hopeless problem. The policy of Albornoz, carried out with extraordinary persistency during the six years from 1353 to 1359, was to win over the rebellious feudatories by a show of force and by the promise of restoration to power on condition of subjection to the Roman overlordship, or, to use again the contemporary language, on condition of

ceasing all forms of Ghibelline intrigue and entering into the Guelph compact, of which the pope was the natural and acknowledged head. In carrying out this policy Albornoz, a Spaniard by birth and training and agent of an absentee French pope, showed himself a master of all the arts of Italian diplomacy. One after another the most dangerous of the Romagnol "tyrants" were drawn away from their Ghibelline connections and employed against their former associates. By the year 1357 the recovery of the papal control was so far advanced that its system of administration could be embodied in the famous code henceforth to be known as the *Constitutiones Egidianae*.

Still the Captain of Forlì held out. With the exception of the town of Forlì he lost all the territories over which his "tyranny" had extended. Cesena, entrusted to his intrepid and devoted wife, Marcia degli Ubaldini, and defended by her to the last possible moment, had fallen. Every kind of pressure from his family and from the citizens was brought to bear upon him. As a last desperate measure, he brought into the city one of those bands of hired ruffians known as the "Free Companies," which were at once a cause and an effect of the political demoralization of Italy. He quartered these unwelcome guests upon the most substantial citizens, with the natural result that life and property and the honor of women were unsafe, and the loyalty of his subjects, already strained to the breaking point, could no longer be counted upon. Under these conditions, finding himself isolated from all hope of support from without and having already suffered from treason within, the Captain began negotiations with the besieging forces. After long bargaining he agreed to surrender at the discretion of the Legate, with the promise of liberal treatment; and certainly the promise was more than fairly observed. This most obstinate of rebels

was indeed deprived of his capital city of Forlì; but he was invested with the lordship of Forlimpopoli and Castrocaro for ten years, was restored to all his personal dignities and honors, and received back into the communion of Holy Church.

The conflict with Ordelaffi had been given a peculiar bitterness by the use of a weapon which could be employed by only one side. Whoever opposed the claims of the Holy See, even though these were purely secular, became *ipso facto* guilty of constructive heresy. He might be cut off from all the benefits of religion, his lands laid under an interdict which deprived his subjects of the same consolations, and his property might be confiscated to the uses of his enemies. Against this one-sided weapon the alleged heretic had no final remedy but submission. He could not argue his case before any tribunal. His only resource was to bring such counter-pressure to bear upon the clergy, who were supposed to be the agents of the Church's wrath, as would compel them to administer the essential rites of religion to him and to his followers. If he could do this, he might indefinitely prolong the period of his resistance; but ultimately he must give way and make his peace with the ever-indulgent and merciful dispenser of spiritual goods.

All this was verified in the case of Ordelaffi. The campaigns against him were dignified by the name of "crusades." The armies of the Legate were made up partly of contingents contributed by "reconciled" neighbors, with eager eyes for the spoils of victory, and partly of loose fighting material drawn into camp by wholesale promises of release from spiritual penalties. These were the "crusaders"—evidently a motley crew, drummed up from all quarters by all the questionable methods suggested in the unsympathetic Matteo Villani's de-

scription of the process. We shall not be accused of apologizing for the atrocious barbarities ascribed to Ordelaffi in his treatment of these "crusaders," if we point out that their grim humor seems not wholly unjustified by the character of the victims.

Our knowledge of Ordelaffi's career is derived mainly from two sources: (1) the *Vita di Cola di Rienzo* by an unknown author of the fourteenth century, edited with elaborate notes by Zeferino Re in 1854; and (2) the well-known *Cronica* of the Florentine Matteo Villani. The two accounts agree substantially as to the general course of events and supplement each other very usefully in details. Why a biographer of Rienzi should have thought it worth his while to devote as much space as he has to the episode of Ordelaffi, is not explained. There is no record of any personal dealings between the "Tribune" of Rome and the tyrant Captain of Forlì. The story occurs as a part of the author's description of the recovery of the papal territories by Cardinal Albornoz. Of fifteen pages given to this description, it occupies ten. Evidently, therefore, it seemed to the unknown writer of peculiar importance and interest. The only connection with the Tribune is to be found in his services as champion of the absent and distressed Papacy in helping to restore some semblance of order in the territories of the Holy See. The clever Albornoz evidently saw in him a providential tool which might be usefully employed in dealing with the perplexing problems of his Italian mission. His fanatical enthusiasm for the Roman ideal of law and order, even though represented by the chronically inefficient Papacy, was too valuable an asset to be neglected, and Albornoz was ready to make the most of it.

The narrative of Ordelaffi begins quite abruptly in the midst of a chapter (II, 7) in which the biographer of

Rienzi is telling the story of the Legate's earliest dealings with the Romagnol tyrants. The first sentence strikes the keynote of the author's attitude toward his subject: "There was in the Romagna a faithless dog of a Patarino, a rebel against Holy Church. For thirty years he had been excommunicate, and his lands had lain under an interdict without the reading of a mass." He was a desperate character, a mortal enemy of priests, a faithless and obstinate tyrant. Only once in the course of his narrative does the author relax somewhat from the severity of this judgment. After enumerating certain especially outrageous acts of tyranny, he adds: "He was absolutely devoted to the people of Forlì and dearly beloved by them. He put on the appearance of pious philanthropy, found husbands for orphan girls, secured places for young women, and provided for the poor among his friends."

With this exception, the attitude of the narrator is hostile in the extreme, and every allowance must be made for this prejudice in our estimate of the personality of Ordelaffi. The atrocities which have made his name a byword to posterity seem to be traceable only to this writer and are not mentioned by the contemporary annalists.

On the other hand, our second authority, the Florentine chronicler, Matteo Villani, indulges in no unfavorable judgments about the Captain of Forlì. In this matter he may have been influenced by his hostility to the great Cardinal. As a loyal Florentine he could not forgive the too great cleverness of Albornoz in his dealings with the Free Company. He accuses him of deliberate fraud in his attempts to buy off these unwelcome guests with Florentine gold (IX, 6, 7), a shabby return, Villani thought, for all the gifts and honors which his fellow-citizens had showered upon the Legate and for their unshaken loyalty to the papal cause.

Villani himself was a faithful subject of the Church, but he does not hesitate to criticize in the sharpest way the doings of clergymen. In his account of the "crusade" preached against Ordelaffi, he gives a vivid picture of the shameful perversion of their commission by the licenced collectors. His language (VI, 14) in describing the scandalous exploiting of the people by these gentry might have been used by Martin Luther of the indulgence preachers of 1517.

Villani's references to Ordelaffi's personal character represent him as a capable, vigorous, determined leader of men. As a "tyrant" he was naturally hateful to the Florentine democrat; but the fault was not wholly his. The root of the evil lay in the folly of the people of Forlì in seeking their political security and their economic prosperity in the *governo d'un solo* instead of trusting to their own civic virtue and their own good swords. Speaking of the misery caused by the introduction of the Free Company into the city, he says: "In this open disgrace was clearly shown the error of a misguided and servile people who, through sheer stupidity, waste an unreasoning affection upon their lords and tyrants." So again, in describing the siege of Forlì by the Cardinal Legate Androin de la Roche, Abbot of Clugny, who had been sent over from Avignon to replace Albornoz, Villani expresses his abhorrence of the method by which the citizens were incited to acts of treason, "or, to use a more respectable word, to negotiation." It was especially offensive to him that "clergymen, who ought to correct the errors and sins of laymen, should be involved in the same and persist therein."

Villani's description of the siege gives attractive glimpses of the Captain's dealing with his young and eager followers. He stimulated their zeal by giving them

opportunity to win prizes in frequent sorties into the camp of the besiegers, and they repaid him with absolute devotion. It was not until after the fatal experiment of introducing the "Company" into the city that he at last discovered how completely he had thereby forfeited the respect of his fellow citizens and was driven to surrender. From beginning to end we find no special emphasis in Villani upon Ordelaffi's "heresy." At the very close he indulges in a bit of rhetoric about "Whoso casts a stone at God"; but even this is directed, not so much against the Captain, as against the people of Forlì who had persisted in rejecting the temporal sovereignty of Holy Church.

A slight contribution to our judgment of Ordelaffi's personality is found in the twenty-fifth *Novella* of Franco Sachetti, a Florentine contemporary. While it was the primary object of Sachetti, as of other story-tellers, to raise a laugh at the expense of some unpopular figure, he betrays as distinct a critical purpose as does the more serious chronicler. The story is based upon the Captain's well-known hatred of priests and his special cruelty in one case of abominable mutilation; but the novelist takes pains to acquit him of the vice of avarice, and in an unusually long "tag" declares that it would be a good thing for society if all priests were treated in the same way.

The anonymous biographer gives us several instances of Ordelaffi's atrocious cruelty. Two of these purport to be records of the murder of a son and a daughter, the offence in each case being the same: each had sought to persuade him to make his peace with Holy Church. Aside from the intrinsic improbability of such outrageous violations of family affection for so slight a cause, there is no mention of these actions in any of the con-

temporary chronicles. The biographer gives as the motive for Madonna Cia's willingness to go into captivity her fear of her husband's *subitezza*. Villani makes no reference to this, and certainly the lady rejoined the Captain after the fall of Forlì and shared his devious fortunes during the remaining fifteen years of his life.

Similar considerations apply to the biographer's stories of the maltreatment of Ordelaffi's "crusading" prisoners. There is a gruesome humor about these, quite consistent with the tyrant character. They can be matched by the hideous pranks reported of those pious scoundrels, the Visconti and their lesser imitators, and are equally incapable of positive proof. My conclusion is that there was always in circulation a choice assortment of scandals about any of these capable knaves, from which a collector like our anonymous source could cull such as suited his immediate purpose. No doubt the man was bad enough to make the worst of them credible to his enemies.

In regard to the stirring espisode of the defence of Cesena by the redoubtable Madonna Cia, or Marcia, there is substantial agreement between our authorities. The biographer of Rienzi gives more of personal detail without showing any great enthusiasm, whereas Villani can hardly find words to express his admiration for the woman's more than manly qualities. She appears in his pages as one of the earliest types of those Renaissance women who stand side by side with their men in every kind of political and intellectual activity. Her unshakable courage, her control over her subjects, her power of swift and sure decision, even against the advice of her counsellors and the commands of her husband, incline us to the judgment of Villani that, if she had lived in the great days of Rome, her fame would have been handed down among the greatest names of women of all time.

The Account of Francesco degli Ordelaffi, Tyrant of Forlì

as given in the Life of Cola di Rienzo by an unknown author of the Fourteenth Century; edited, with an emended text, notes, and an historical and critical Commentary by Zeferino Re. Florence, 1854.

BOOK II

CHAPTER VII

Malatesta, in order to liberate his brother, restores by agreement with the Legate the lands of the Church which he held. The story of the cruel and tyrannical deeds of Francesco di Ordelaffi.

Messer Malatesta, in order to procure the release of his brother (Galeotto), made obeisance to the Legate. He surrendered to him voluntarily the city of Ancona and all the territories which he held in the March and in the Romagna. Thus the Church gained the noble city of Ancona with its harbor on the sea, its commerce and its rich revenues, and built there two splendid fortresses which are standing to this day. A relative of the Legate was made Marquis and sent as governor of the March. Then, generously and wisely, he provided for the Malatesta an honorable and genteel income for their support. He left them four good and famous cities, Rimini, Fano, Pesaro and Fossambruno, four notable and rich places. Then he made them Captains of the Church against the rebels. So these events paved the way for further and still greater deeds and developments. There was in the Romagna a faithless

dog of a Patarino,[1] a rebel against Holy Church. For thirty years he had been excommunicate and his lands had been under an interdict without the reading of a mass. He held in his power many lands of the Church: the cities of Forlì, Cesena, Forlimpopoli, Castrocaro, Brettinoro, Imola and Giazzolo. All these he held and ruled them as a tyrant; not to mention many other castles and communes belonging to local proprietors.

This was Francesco Ordelaffi, a desperate character and a mortal enemy of priests who never forgot that he had been harshly treated by the former Legate, Bertrando del Poggetto, Cardinal of Ostia. He refused to live any longer under priestly rule (*a discrezione di preti*). He was a faithless and obstinate tyrant. This Francesco, when he heard the bells ringing for his excommunication, ordered other bells to be rung and excommunicated the pope and the cardinals, and, what was worse, he burned paper images of them filled with straw in the market place. Talking with his good friends, he said: "Well, we are excommunicated, but for all that our bread, our meat and our wine will taste just as well and do us just as much good."

And this was his way of treating priests and monks: The bishop, after he had pronounced the excommunication and had been outrageously insulted, stayed away, and the Captain forced the clergy to celebrate mass, the greater part of them doing as they were ordered in spite of the interdict. Fourteen clerics, seven monks and seven seculars, received the sacred honor of martyrdom. Seven of them were hanged by the neck and seven were flayed.

1. The word *Patarino* goes back to the eleventh century as the name of a dualistic or "Manichaean" sect widely spread in the neighborhood of Milan. It came to be used as a term of abuse for any particularly violent form of opposition to the established sacerdotal hierarchy, and it is in that sense that it appears here. Ordelaffi was a Patarino, not on account of any formal heretical opinions, but because he was a deadly enemy of priestly rule.

He was absolutely devoted to the people of Forlì and dearly beloved by them. He put on the appearance of pious philanthropy, found husbands for orphan girls, secured places for others and provided for the poor among his friends.

CHAPTER VIII

I come now to the war. Don Gilio [Cardinal Egidio Albornoz] of Cuenca in Spain made his headquarters and his residence at Ancona and to increase his forces proclaimed a crusade. I heard him preach it, granting remission of sin and penalty to those who should take the cross or give their assistance. He then set out against that hound, the Captain of Forlì, Francesco Ordelaffi. Before the camp was pitched every necessary preparation for the army was made. The Legate sent bishops and knights and other honorable gentlemen to urge the Captain not to persist in his evil ways. He listened quietly to their persuasions, but by night he made sallies from Forlì and plundered the lands of the Church, and that was all the answer he made.

The Legate, knowing the hardened heart of Francesco de li Ordelaffi, pitched his camp above the town of Cesena. The Malatesta were the chiefs and guides of his army. There were 12,000 crusaders and 30,000 hired soldiers (*soldati*). The army, divided into two corps, one on each side of the city, laid waste the country. At the sound of a trumpet 3000 raiders (*guastatori*) with banners flying took up position and carried off the plunder, *res digna memoratu*.[1]

At this juncture the Holy Father sent express orders that Don Gilio should return to Provence. The reason for

1. The occasional use of Latin phrases suggests that the *Vita* may be an Italian version of a Latin original.

this was that the Count of Savoy with his great company of *barbute* (visored soldiers) was ravaging the whole land of Provence, taking possession of lands, plundering and holding citizens for ransom. Before Don Gilio left there came another legate, a Frenchman, an abbot from Burgundy, a prebendary of large revenue, a very powerful and able person.

Ordelaffi had a son named Giovanni and another named Ludovico. This latter went to his father and humbly besought him as follows:

"Father, for God's sake, may it please you not to make war against the Church and not to set yourself against God. Let us obey and do as we are ordered. I am convinced that the Legate is a man of good judgment. He has treated the Malatesta well and will do equally well by us. He will provide for us so that we may live well and in honor." To these humble words the haughty father replied:

"You are either a bastard or a changeling!" The son, knowing the quick temper (*subitezza*) of his father, turned to leave him, when the father, drawing a long dagger, stabbed him in the back so that he died before midnight.

While the Abbot-Legate was preparing for war Sir Gilio did not relax his assault upon Cesena. He built three lines of fortifications each ten miles long. The legates returned to Rimini.

CHAPTER IX

Capture of Cesena by the Legate with the Help of Four Citizens

In Cesena stood the Lady Marcia, wife of the Captain of Forlì, with her grandchildren and with a great body of hired troops (*forestieri*) within the inner citadel. To this Lady Marcia the Captain wrote the following letter:

"Marcia, guard well and faithfully the city of Cesena." The Lady Marcia replied: "May it please you to take good care of Forlì, and I will take good care of Cesena."

Again the Captain wrote a letter, the substance of which was this: "Marcia, I order you to cut off the heads of four men of the people of Cesena, namely, Gianni Savanella, Jacobo de li Bastardi, Palazzino and Ubertonuccio, Guelphs, whose loyalty I suspect." When the lady received this letter she did not proceed at once to carry out the order but set about to make most careful inquiry as to the attitude of these four citizens and found that they were good and loyal men. She took special counsel with two most faithful friends of her husband, Sgariglino, a man of noble family and Giorgio de li Tiberti. She showed them the letter, and their answer was this:

"My Lady, we see no reason why these men should die. We do not see that they are inciting to revolt, and their death would be likely to excite the people. Postpone for the moment the execution of this order, and we meanwhile will be on the watch and observe most carefully the conduct of these men. If we find anything wrong we will act according to the above order, will arrest them, give them open trial and put them to death instantly."

The Lady assented to the advice of the two nobles loyal to her husband and refrained from immediate action. This secret agreement was secretly betrayed to the four, who proceeded to make a new plot to turn the city upside down. Gianni Savanella passed the word around among his friends, riding about the country on a cart-horse and calling upon one and another. One morning, while the affair was fresh, Jacobo de li Bastardi hurried to the Porta della Troja with the people of the neighborhood and took possession of it. Ubertonuccio and Palazzino gathered a

mob, barricaded the city and sent word to the fortress at Savignano: *celeriter illi vadunt.*

When Lady Marcia heard the tumult and knew that the people were rising, she straightway armed her hired men, both horse and foot, and ordered them to patrol the town. This they could not do, since the place was barricaded, the people in arms, the Porta della Troja captured, the towers reinforced (*rincastellati*) and, what was worse, horsemen were coming to the aid of the citizens at sundown, eight hundred Hungarian archers who were posted at Savignano in the fortress, swift moving troops trained in war. These did not enter Cesena but circled about the city, now in front and now in the rear, to encourage the citizens. Seeing this Lady Marcia withdrew to the rear of her mercenaries and shut herself up in the citadel, and there remained. This citadel is a part of the city strongly fortified and containing the piazza of the Commune, the public palace and the tower, also large houses of private citizens. It has a very lofty position overhanging the town which lies in the plain below.

Enraged at the loss of the town, Lady Marcia turned her wrath upon the two counsellors who had been specially devoted to her husband, Giorgio de li Tiberti and Sgariglino, and had them beheaded. Of this her husband expressed his disapproval the following day at sunrise.

CHAPTER X

Capture of the Citadel of Cesena and Imprisonment of Lady Marcia

Now came the Malatesta with a great and powerful force. The Porta della Troja was opened to them, and they entered Cesena where Lady Marcia was besieged in the citadel. The fortress of Fiumone was surrendered, and

the Malatesta made a furious attack upon the citadel. They tried assaulting-parties, and feigned attacks, threw fire within, set up mangonels and threw quantities of stones and rocks — but all without any effect whatever. There was a supply of water inside, and the principal tower stood above the gate of the inner fortification.

The Legate gave the order to begin undermining, a work of great difficulty, at great cost of time and money. The excavation was made under the cistern; this broke, and the water was lost. Then the tunnel was carried under the main tower of the Piazza, the supports were set on fire, and the tower fell with a mighty crash. Then a tunnel was made under the tower above the gate at the entrance to the inner citadel.

Infuriated by this Lady Marcia knew not what to do. She chose out from the citizens within the fortress such as she saw fit and of whose loyalty she was in doubt and had them locked in the tower above the gate, saying: "If the tower falls, it will fall on you!" The tower, standing upon wooden supports, began to tremble. Then the Legate, Don Gilio, with a great following, came across country to inspect the situation at Cesena, the work of excavation and the progress of the siege.

Then came forth some five hundred women of Cesena with hair dishevelled and slashing their breasts, weeping and wailing aloud, and knelt before the Legate praying for mercy. The Legate, not as yet informed as to the cause of such bitter grief, asked why they were behaving in this fashion. The women answered:

"In the tower above the gate are imprisoned our husbands, our brothers and our relations. The tunnel is completed; if the tower falls our men must perish. For God's sake we pray you not to order the firing of the timbers!"

The Legate, perceiving that Lady Marcia was in des-

perate straits and that her courage was broken, began negotiations whereby the citizens of Cesena who were in the tower were delivered into his hands. Then the supports were set on fire, and in a short time the tower fell, together with a great part of the enclosing wall. Thus the way was open to enter the city; but this was done, not in fury, but according to agreement. The Legate had in his power the Lady Marcia with one son and two grandsons. Lady Marcia refused to be set free, fearing her husband's quick temper (*subitezza*), and she prayed earnestly that Holy Church would take her under its protection.

The pay of the engineers for the excavation, the mangonels, and the other enginery was 3000 florins per day. The hired soldiers cost 12,000 florins per day. The Legate entered Cesena and held the place for the Church. This is how the city of Cesena in Romagna was recovered by the Legate.

CHAPTER XI

The Legate repeatedly proclaims a Crusade against Ordelaffi, and finally captures Faenza and Bertinoro

The Legate now began preparations for an attack upon Forlì. He first gathered a mighty army, and meanwhile came the news of the capture of Lady Marcia and her imprisonment at Ancona. One of her daughters, a noble lady, wife of a grandee of the March of Ancona, went to her father, knelt before him weeping and with folded arms and said:

"My father and my lord, may it please you not to allow my lady mother, a lady of such [noble] quality to remain a prisoner in stranger hands! I pray you to bow to the will of Holy Church!"

To these words Ordelaffi made no answer, but seized

his daughter by the hair and with his dagger severed her head from her body.

After the capture of Cesena the Legate sent this message to the Captain: "Captain, if you will surrender what is not yours I will give up your wife, your son and your grandsons."

To these words the Captain replied: "Say to the Legate that I thought he was a man of sense, but now I call him a beast and a fool! Tell him if I had had him in prison as he had those who belonged to me, I would have hanged him by the neck three days ago." So the heart of this obstinate heretic of a Patarino was hardened, and Don Gilio the ex-legate set out for Provence. When the Company [of mercenaries] knew that Don Gilio was approaching the border [of Provence] it melted away like a light snow before the blazing sun.

The new legate, the abbot from Burgundy, remained and led a powerful army against Forlì. For several years he proclaimed the crusade throughout all Italy. He carried away the grain, cut down the vines, trees and olive groves and set fires at every opportunity. Through this vigorous warfare the Captain lost Faenza and [the support of] his sworn allies the Manfredi. He also lost Bertinoro, and then shut himself up in the fortress of Forlì.

In the course of the siege of Forlì many of the crusaders who had gone into the fight against these schismatics in order to acquire merit were captured. When they were brought before Francesco he said: "You wear the cross, but it is a cross of cloth, and cloth is perishable. I want you to wear a cross that will be indestructible." Then he had made a red-hot iron in the form of a cross and applied it to the soles of their feet, plundered them and let them go. He took many others who wore the cross and said to them: "You came hither to save your souls; now,

if I let you go you may return to your former sins. It is better for you to die now, while you are in a state of innocence and repentance. God will receive you into his kingdom." Then he had them flayed, hanged, beheaded, impaled, racked and put to death with many other tortures.

The war lasted many years, and to maintain it the crusade was preached many times. Just now, in January of this year of our Lord 1358 it was preached in the city of Tivoli.

The Account of Francesco degli Ordelaffi, Tyrant of Forlì

as given in the Chronicle of Matteo Villani, edited by Fr. Gherardi Dragomanni. Florence, 1846, 2 vols.

Matteo Villani, V, 77

The Legate now turned his attention entirely to crushing the tyranny of Francesco degli Ordelaffi, Captain of Forlì. In his attack upon Cesena Count Carlo of Doadola with two sons of the Count (*conticino*) of Ghiaggiulo of the house of the Malatesta went raiding with one hundred knights and a considerable number of footmen. They made their way close up to the walls of Cesena, secured a quantity of booty and were forming to return to their camp when Madonna Cia, wife of the Captain and entrusted by him with the defence of the city, mounted her horse, clad in armor, not like a woman but like a brave cavalier, shouting and calling upon her hired horsemen to follow her against the enemy without.

Thus encouraged, the knights, seeing such bravery in a woman, followed close, smote the enemy and drove them into confusion. Count Carlo was so badly wounded that he died soon after; the two sons of the Count of Ghiaggiulo and the greater part of the knights and foot soldiers were made prisoners. The booty was recovered, and the troops returned to Cesena with great honor.

VI, 14. *The Legate proclaims a Crusade against the Captain of Forlì*

That winter the Spanish Cardinal Gilio [Egidio Albornoz] Legate of Holy Church having successfully recovered for Holy Church the Patrimonium, the March of Ancona, the Duchy of Spoleto and the greater part of

the Romagna, there remained to be recovered Forlì and Faenza with their surrounding territories which were held under the tyrannies of Ordelaffi, Captain of Forlì and Giovanni son of Ricciardo Manfredi. The Legate, unable to come to any terms with them, ordered charges to be brought against them and because they would not return to their allegiance, pursued these to a verdict. The sentence was proclaimed throughout Italy, they were excommunicated and having procured letters of indulgence from the pope granting full remission of sin and penalty to such as repented and confessed, he proclaimed a crusade against Francesco Ordelaffi, tyrant of Forlì, Forlimpopoli and Cesena and against Giovanni and Rinieri de' Manfredi, tyrants of Faenza. They were condemned as heretics and rebels against Holy Church, and the soldiers, whether horse or foot, were given the right to spread one year's service in arms against them over two years.

Pardoners and collectors were chosen for the several provinces and cities, and straightway the avarice of clerics began to do its work. They extended the indulgence in their sermons beyond the papal commission and began to accept money from every sort of people, granting absolution for sins and vows of every description for money, much or little as they could get it. To satisfy their avarice they called upon every humble woman and poor person who had no money, in cities or castles or villages, to give them linen or woolen stuffs or furnishings, grain or fodder. There was nothing they would not take, deceiving the people by exaggerating the extent of their commission. That was the way they gave the cross, exploiting villages and castles worse than the cities; but even in the cities women of all ranks went further than everyone else, and thus they gave the cross. The date set for the war was May 1, 1356.

In the city and territory of Florence an Augustinian friar, bishop of Narni, collected a huge treasure, but as the Cardinal could not get a straight account of it he kept the bishop imprisoned for a long time in one of his castles in the March at the bishop's own expense.

VII, 33. *The Captain prepares for a Siege*

When the Company had crossed over into Lombardy the Legate began preparations for the war against the Captain of Forlì and the Lord of Faenza, and for the siege of Forlì. The Captain, bold and clever, before the siege was really upon him, got together 300 mounted men of his own and 500 mercenaries (*masnadieri*) and suddenly, before the Malatesta knew it, he went raiding with these troops as far as Rimini, collected a huge booty in men, equipment and animals, turned about and came back to Forlì with the whole plunder and without opposition. He then dismantled and burnt all the country estates round about, which could make no defence and proceeded to clear the country of all persons not useful in war. He laid in an abundant supply of food, so as to hold out as long as possible against the Legate who was on the point of beginning the siege and soon began it, but not so soon as he had intended.

VII, 38. *The Council held by the Captain of Forlì*

When Francesco degli Ordelaffi saw that Faenza and all the rest of the Romagna, the March of Ancona and the Duchy of Spoleto had returned to the obedience of Holy Church and that the Legate, now well equipped with men and money, had no other war on hand except against him, he called a council of all the leading men of Forlì and asked their advice as to what he had better do. They took counsel together and unanimously reported to the Cap-

tain that the affection and loyalty which the people of Forlì had always felt toward him and his family were undiminished. As at other times they had given him aid and support with their own property thus deciding his return to power, so they proposed still to do whenever — which God forbid! — the occasion should arise. Nevertheless, seeing the great strength of the Church now directed against him alone and that there was no one to help him, they advised him to make the best terms he could with the Legate. By this means his friends would not lose their property and thus would be able to support and help him.

When he had heard their advice he said: "And now I want you to listen to my proposition. I have no intention of making any agreement with the Church unless Forlì and the other territories I now hold are to remain in my hands, and these I propose to hold and defend to the death, — first, Cesena with its outlying fortresses and Forlimpopoli, and if these are lost then the walls of Forlì, and if the walls are lost, its streets and squares and at length this palace of mine, and finally the last tower of it, before a single one of them shall be given up with my consent!"

So, then, he wished them all clearly to understand his purpose, and he urged them with violent threats to be his faithful and loyal friends. His wife and children he sent away with a strong company of horse and footmen and committed to them the defence of Cesena. He then strengthened all the fortifications and sent out of Forlì the women and children and people of no use in time of siege. He stationed soldiers in the homes and warehouses of the more timid citizens and thus prepared he set about defending himself against the Legate.

VII, 58. *The Forces of the Church enter Cesena*

When the Cardinal-Legate had decided to stay and carry on the war in Romagna, as has been said, he gathered his men, both horse and foot and called upon all his subjects for assistance. He proclaimed sentence [of excommunication] against the Captain of Forlì and all who should give him aid or comfort, and on the 24th of April he sent out his troops around Forlì, took Castelvecchio and plundered the country doing great damage, the Captain remaining for the time within the walls.

Francesco Ordelaffi, the aforesaid Captain, had appointed as guardian of Cesena his brave wife Madonna Cia, daughter of Vanni da Susinana degli Ubaldini, with two hundred knights and a considerable number of foot soldiers and had given orders to them all that they should obey her as they would himself. As her special counsellor he had assigned Sgaraglino di * * *, his confidential friend. The Lady maintained the defence of the city with the greatest energy, but the citizens, seeing what a strong force the Legate had and that an assault was preparing against which they could not possibly defend themselves, quite suddenly decided to admit the troops of the Legate into the lower town. He immediately sent in 1500 horsemen and these without opposition, were stationed by the inhabitants along the first circle of the walls. Against this unforseseen attack the Lady could not defend herself with the force at her command, and therefore at the end of April she withdrew into the upper town called the fortress (*murata*) and into the citadel (*rocca*) with all her hired soldiers both horse and foot. She took three of the citizens who had taken part in the capitulation, had them beheaded on the wall and their bodies thrown down among the enemy. Then, with more than a man's cour-

age and energy, she began the defence of the inner circle and of the citadel, with the utmost watchfulness both day and night, showing no signs of fear at anything that had befallen her.

VII, 59. *The Legate moves his whole Army against Cesena*

When the Legate had brought his troops into Cesena he straightway sent for the rest of his army to lay siege to the Lady in the fortress and the citadel before she could receive aid from outside. He seized upon a monastery on a hill of equal height with the citadel and stationed there so strong a force that the citadel could not be relieved from that side. Within the lower town he strengthened himself so that a force larger than his own could do him no harm. The soldiers of the Cardinal had plundered the citizens contrary to agreement, and this had caused a change of feeling among the people, so that extreme caution was necessary to hold the place, and to this the Legate gave the utmost diligence.

The brave Madonna Cia on her side was on guard day and night and carried on the defence with great skill.

VII, 64. *Bernabò Visconti sends Aid to the Captain*

The Captain of Forlì, learning that the troops of the Legate were in Cesena and that the citadel was barricaded and his wife and children shut up in the fortress, sent word to Bernabò, Lord of Milan, in whom he placed his only hope. Bernabò began at once to prepare for his relief, but not wishing to appear openly as an enemy of Holy Church, he entered into secret negotiations with Count Lando, head of a Free Company, and by payment of money drew him away from the enemy into his own service and sent him into Romagna against the Legate and

to the relief of his friend the Captain of Forlì. Before the Company set out he sent 2000 of his own horsemen into the territory of Modena to give encouragement to his friends and to check the movements of the Legate, and there they stayed without active operations, holding in suspense both the Lombards and the Legate.

Meanwhile the Legate was straining every nerve to bring pressure upon those within the fortress of Cesena. He made vigorous assaults by day and by night, set up additional mangonels and bombarded them from every side. Besides this he tried by negotiations and bribery (*spendio*) to get possession of the fortress before the Company should arrive. In consequence of this Madonna Cia, suspecting that without her knowledge her husband's old friend Sgariglino, who was in attendance upon her, was making some agreement with the Legate for the rescue of the besieged, promptly had him arrested and beheaded, in the month of May.

She remained the sole director of the fighting and captain of the soldiery. Day and night, clad in armor, she defended the fortress against the assaults of the Legate's troops with such desperate courage that friends and enemies alike stood in no less awe of her than if the Captain himself had been present.

VII, 67. *The Florentines attempt Mediation*

At this juncture the Florentines, seeing the obstinacy of the Captain of Forlì and fearing that the arrival of the Company and of other reinforcements (*nuova gente*) in Romagna would be dangerous to themselves, sent ambassadors to the Legate offering to serve as mediators between him and the Captain of Forlì. They found him favorable to peace out of regard for the Florentines and went over to the Captain with high hopes of success. He re-

ceived them honorably, listened to their proposals and thanked them for their mediation. In reply he said he was ready to make his peace with the Legate and with Holy Church on condition that he should remain Lord of Forlì and Cesena and all the places he then held, recognizing the overlordship of Holy Church and paying a reasonable yearly tribute in token of fealty. On any other terms he would not discuss the matter, and on this point he was firm. So the mediators returned to Florence without any result whatever.

VII, 68. *The Legate Captures the Fortress of Cesena*

When the terms of this negotiation were known the Legate, being extremely anxious to win the fight before relief for the enemy should arrive, put his forces in order and set up many machines for an attack upon the fortress of Cesena. He pushed the assault from all sides at once, and, finding that a part of the wall could be undermined, he brought this to a fall. Those within at once repaired the breach with stockades. As the fighting grew more fierce on every side the assailants were frequently relieved by fresh troops from the outside, while the defenders in a terrific struggle over the ruined wall were worn out with fatigue and had no possible relief. The other parts of the fortifications were so hard pressed that they could send no help to the weaker places, and so, seeing that they could hold out no longer, although they had killed and wounded not a few of their opponents, they signalled to each other to abandon the fortress and retire into the citadel. The victorious troops of the Legate entered and took possession. Madonna Cia, having performed marvellous feats of arms and of leadership, during the defence, withdrew into the citadel with 400 knights and footmen who, for love of the Lady, had sworn to follow her orders even unto death.

VII, 69. *The Deeds of Lady Marcia, Wife of the Captain of Forlì*

When Lady Marcia had shut herself up in the citadel with Sinibaldo her young son and two little grandsons, a daughter of marriageable age, two daughters of Gentile da Mogliano and five ladies-in-waiting, she was closely pressed by the siege and exposed to the attack of eight machines which hurled huge stones into the citadel without intermission. She had no hope of rescue and knew that the walls of the citadel and its towers were undermined by the enemy. But still she held out wonderfully, aiding and encouraging her people in their defence. At this crisis her father, Giovanni da Susinana degli Ubaldini, knowing her peril, went to the Legate and gained his permission to speak with his daughter and persuade her to surrender with promise of safety for herself and her people.

So he came to her and, speaking as her father, as a man of great reputation and as a master of the art of war, said to her: "My dear daughter, you must believe that I have not come here to deceive you or to betray your honor. I can see that you and your company are at the last extremity of irreparable disaster. There is no escape but to take advantage of the terms offered to you and your company and to surrender the citadel to the Legate." He added many reasons why she should do this, showing her that it would be no disgrace to the bravest captain in the world in such a strait.

Then the Lady answered her father and said: "My father, when you gave me to my lord you commanded me to do in all things as he should bid me. This I have done until now, and this I propose to do till I die. He entrusted this town to me, bidding me on no account to give it up or make any disposition of it except in his presence or

upon some secret order from him. I care not for death or anything else so long as I am obeying his commands." The authority of her father, the imminence of her peril and the many examples cited by a man of such quality could not shake the woman's determination. She bade farewell to her father and bent her whole energy to the defence of the citadel which was all that remained in her charge. This she did, not without the admiration of her father and of all who witnessed the manly courage of this woman. For my part, I believe that if this had happened in the time of the Romans, their great writers would not have failed to honor her with illustrious fame along with those other women whom they have recorded as worthy of singular praise for their constancy of purpose.

VII, 77. *How the Citadel of Cesena was surrendered to the Legate*

When the Legate learned that the Company had taken up its quarters in the territory of Bologna he suspended all other operations and devoted himself with the utmost energy to the capture of the citadel of Cesena. He undermined it to cause the fall of the wall and the towers, hurled great stones into it with eight mangonels and besides made frequent assaults upon it. But such was the firmness (*severità*) of the Lady Cia and her watchfulness by day and by night in the defence, that in spite of all he could do her courage never wavered.

Even when a part of the wall and one of the towers had fallen the Lady in person reinforced the breach with stockades and trenches, surpassing the proudest and ablest men in the world in her total absence of fear. Her trained captains, however, knowing that the main tower was supported only by wooden piers and seeing the persistent determination of the Lady, held counsel with her

and said: "Madam, it is perfectly evident to all that you have maintained the defence both of the walls and of the citadel to the last extremity. You have seen our complete and perfect loyalty as long as there was the slightest hope for you or for ourselves. But now there remains no possible way to escape the burial of our bodies beneath the ruins of this citadel, and since we are under no obligation to endure this we propose, with your consent or without it, to surrender the citadel and save our lives."

Upon this the noble Lady did not change countenance or lose anything of her self-possession (*virtù*). She realized that the soldiers were right in taking this step and said to the captains: "I only ask that you will allow me to conduct this negotiation." And the captains, knowing the high spirit of the Lady, gave their consent. So word was sent to the Legate, and agents with full powers were received from him. It was agreed that all the captains with their companies and all the other soldiers should have their full liberty and might carry upon their persons whatever they wished. The Lady herself was to remain the prisoner of the Legate together with her son and daughter and two grandsons on the maternal side and one bastard; also two daughters of Gentile da Mogliano and five of her waiting-women. For herself and her family she sought no favors, having secured the safety of the soldiers who had so loyally supported her.

When the agreements were made and signed, on the 21st of June, 1357, she delivered over the citadel to the Legate. Thus he became master of the whole territory and won great reputation as a soldier — but this without any diminution of the high renown of that noble-spirited woman who, under the unendurable strain of adverse fortune, never, so long as she had her liberty, changed her countenance or failed in counsel or in action.

Conducted to prison in the Legate's castle at Ancona, she maintained her courage unconquered and uncorrupted and bore herself as if the victory had been hers.

The Legate, in admiration of the Lady's constancy, although he kept her a prisoner in order the more quickly to break the haughty spirit of the Captain, gave her honorable treatment and suitable service.

VII, 94. *The Cardinal lays Siege to Forlì*

The Cardinal, having got the Company out of the Romagna, as has been told, and finding that the Captain of Forlì was obstinately determined not to return to the obedience of Holy Church, and being desirous of returning to the papal court, made arrangements before his departure, with the other legate, the Abbot of Clugny, to lay siege to the town of Forlì. At the end of August they pitched their camp with 2000 horsemen and a great number of foot-folk (*popolo*) and began to lay waste the surrounding country.

The Captain, with great courage, having but few horsemen and his own burghers, confined himself to the protection of the city, provided everything necessary for life and set himself vigorously to the task of defence. He made frequent sorties with his men, attacked the enemy in their camp, did them what harm he could and by prudent conduct withdrew in safety. With great satisfaction to himself he trained the young men in martial exercises, and on their return into the city he sent for them all, playfully complimenting them on their bravery and recounting what each had done, making presents of a *grosso* or two or three *bolognini* to those who had gone farthest toward the front.

By such attractions and slight rewards he induced the young men to follow him gladly without urging, in order

to gain experience in arms. In this way he so won their affection that he needed no personal protection against any suspected persons. He beguiled the tedium of the siege with the enjoyment of continual martial exercise and directed his people so wisely that he never lost one of them and left to the enemy small hope of conquering the city.

VIII, 49. *The Papal Legate renews the Siege of Forlì*

On the last day of the month of April, 1358, the Abbot of Clugny, the pope's legate, having received large accessions of men-at-arms, made proclamation that whoever, citizen or stranger, might wish to come out of Forlì would be kindly received by him and his men, would receive pardon for his offence against Holy Church and be freed from his excommunication. With this in view many fled to the Legate on several occasions, and often those who were in charge of the walls let themselves down to the ground and went over to the enemy by night. The Legate renewed the attack with a great army and a thousand horsemen to begin with. The Captain and his madly devoted burghers refusing to accept any terms, persisted in their stubborn obstinacy and determined to maintain the defence at every sacrifice of ease and comfort.

VIII, 52. *The Papal Legate builds two Bastions at Forlì*

In this month of May the Legate, seeing the determination of the Captain of Forlì and of the people of that city, who could not be persuaded by any device to separate themselves from the fortunes of the Captain, in order to convince them that he proposed to maintain the siege summer and winter and conquer them by force, built a great strong bastion between Faenza and Forlì.

He stationed there as many soldiers, both horse and foot, as he needed to keep the city of Forlì well blockaded on that side. Soon after he built another between Cesena and Forlì at the bridge of Ronco. The rest of his army he kept in camp near the city and sought opportunity day and night for an assault.

And of all this it seemed as if the Captain and the men of Forlì took no account at all. The Captain and the young men frequently came out of the town, attacked the camp and returned to safety in good order.

VIII, 69. *Treason in Forlì*

Dishonorable and unreasonable as it seems that clergymen, who ought to correct the defects and sins of laymen, should be involved in the same and persist therein, especially in those forms of human error which appear most dreadful and abominable, as, for instance, treason, or, to use a more respectable word, "negotiation,"—nevertheless, in the corrupt practice of these evil days it seems to be no disgrace for those who are set by Holy Church in charge of its temporal possessions—in spite of their being clergymen—to employ the arts of treachery.

By making use of this broad and unchecked freedom of action the Abbot of Clugny, papal legate in the Romagna, entered into negotiations with the guardians of certain towers of the city of Forlì for their surrender. He sent in some six hundred of his people, horse and foot, took possession of the towers and entered the town. If he had had a stronger force he would have captured it, but the citizens, unterrified by this sudden and unexpected attack, rallied to their captain, threw themselves upon the invaders and drove them out, capturing or killing many of those who had advanced farthest into the town. Among the prisoners was the son of Count Bandino of

Montegranelli. The rest fled unpursued without the town and returned in disgrace to the Legate.

VIII, 84. *The Captain of Forlì brings in the Company*

The Captain, in desperation and caring little for law or loyalty, without regard to his fellow citizens who had borne every kind of suffering to keep him in power, made a secret agreement with the captains of the Company to give them 25,000 florins with quarters in Forlì. They engaged to capture the bastions in the neighborhood and to be at his disposal in the Romagna for some time. At the beginning of August he let them into the city without the approval of the citizens. The Company had been defeated as we have narrated, had suffered greatly and was in great need of a rest. For this purpose they began to seize the houses of citizens, to take their supplies and furnishings and to settle down familiarly with them. They made requisitions beyond their needs, contracted dishonorable and undesirable relations with the families of those citizens who remained with them rather than abandon their homes and their property. But many, to whom honor was dearer than property, left their homes and went into narrow quarters, giving up all they had rather than contend with the beastly gang.

In this open disruption was clearly shown the error of a mistaken and servile people, who through sheer stupidity waste an unreasoning affection upon their lords and tyrants. This people repented bitterly as they recalled with secret murmurings the great and ill-repaid loyalty they had shown to their Captain, enduring the sufferings of a long siege in rebellion against Holy Church with the loss of all their property and great distress to their families and themselves. Wherefore, deservedly was fulfilled upon them the proverb which says: "Whoso casts a stone at God, it shall return upon his own head!"

IX, 36. *The Captain of Forlì surrenders to the Legate*

The Captain of Forlì, having lost the hearty support of the Company and being greatly depressed by the prolonged conflict; seeing also that he could hold out no longer and that he had forfeited the affection of the citizens by bringing the Company into Forlì, began a long series of negotiations through mediators and decided to surrender himself at the absolute discretion of the Legate, with assurance of generous treatment. On the fourth of July, 1359, the Legate in person, having first stationed his men in the fortresses, made his entry into the city, with great rejoicings both on the part of his own people and of the citizens of Forlì. At this entry Albertaccio da' Ricasoli, a citizen of Florence, who had been continuously in the most secret counsels of the Cardinal and was the chief adviser and director of his campaigns, was created a knight at their entrance into the palace.

After this the Legate arranged for the defence of the place, and leaving his Vicar there went on to Faenza. There, in open assembly, the former Captain of Forlì made acknowledgment and confession of all the sins and errors of which he had been guilty against the Roman Church and its pastors. As these were read out to him in the presence of the people he humbly begged for pardon and mercy from the Church of Rome.

Thereupon the Legate, in a long and eloquent address, set forth his offences and the obstinacy of his heresy and the penalties which he had incurred. He deprived him of all his dignities and honors and imposed upon him as penance that he should visit certain churches in Faenza with certain formalities. After this the Cardinal rode on to Imola, where he met the Lord of Bologna, who had given bonds for the Captain, and after several days of

conference with him received Francesco degli Ordelaffi again into the communion of the Lord's Table and with him by name all his partisans and all who had shown him favor. He pardoned him all his offences against the Church of Rome, annulled every charge of heresy made against him and received him back into his favor, proclaiming him for ten years Lord of Forlimpopoli and Castrocaro with the privilege of residence in either of those places with his whole family, the citadels to be under the charge of persons friendly to both parties. He restored to him unconditionally his wife and his sons and all of the friends and followers of the Captain whom he was holding as prisoners.

Thus came to an end the long and obstinate war of rebellion of the Captain of Forlì, and by reason of this the Romagna remained in peace and willing submission to the Church of Rome.[1]

1. Theiner, *Codex dipl.* II, 357. Innocent VI congratulates Albornoz on the recovery of Forlì.

V

THE ORDINANCES OF ALBORNOZ

V

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Introduction

THE so-called *Constitutiones Egidianae* are a code of laws published in the year 1357 by the Cardinal-Legate Egidio Albornoz for the regulation of those territories in Italy which were under the direct temporal sovereignty of the Roman Papacy.[1] They are worthy of the attention of the modern historical student, partly for the light they shed upon the very complicated subject of government in the Italian republics of the Middle Ages, and partly also because they form the most lasting monument of mediaeval legislation. From the date of their publication until their formal abolition in the year 1816, they were recognized as the technical basis of administration

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throughout the vast territory for which they were originally intended.

The occasion which called them forth was the completion of the great military and diplomatic undertaking which was the crowning glory of their author's stirring career. To understand the historic significance of this enterprise, one must first have some idea of the condition of Central Italy in the first half of the fourteenth century. The history of mediaeval Italy may most profitably be studied as the record of a continuous struggle between the feudal-aristocratic and the bourgeois-commercial elements of the population. The former, essentially rural and agricultural, found themselves increasingly in competition with the rapidly growing industrial and trading communities gathered within the walls of cities.

The political problem may be simply stated in this way: were cities destined to become incidents in the life of larger territorial divisions, or were they to be independent political units by themselves? In other countries the same question arose, and was variously answered according to the several divergent processes of the national development. In France the steady growth of a national monarchy was at first favorable to municipal independence as a makeweight against the power of the feudal nobility. In the long run, however, it worked the other way, and cities became metropolitan centres of industrial life within larger territorial political lordships. In England the growth of parliamentary government tended toward an equalizing of the political importance of towns and rural communities. In Germany also the parallel development of princely territories and the greater lay and ecclesiastical cities produced a division of the country into rural and urban political units which persisted through the manifold changes of sovereignty down to the formation of the German Reich.

In Italy this issue was fought out, generation after generation, from the twelfth century on, now with one and now with the other party temporarily in the ascendant. As a rule the feudal elements of the open country sought their support in the remote and fitful policy of the Germanic Empire, while the industrial and trading cities allied themselves with the more permanent and self-conscious interests of the Roman Papacy. It is true that this normal alignment was continually broken through by temporary local combinations and animosities; but it was invariably renewed, and the rival party designations of "Ghibelline" and "Guelph" came to be everywhere recognized as the rallying-cries respectively of those contending forces.[1] By the close of the thirteenth century it seemed as if the papal-bourgeois alliance had definitely gained the upper hand. The papal power had taken advantage of its position as arbiter among the numerous Italian communities to fix its hold upon a widely extended territory on both sides of the Apennines as its own. The *Sovranità Temporale* became a dogmatic proposition as well as an accomplished fact of political sovereignty. Whoever encroached upon it became guilty of constructive heresy and could be pursued with the weapons of the spirit as well as with those of the flesh. A war in defence of the Temporal Sovereignty was a "crusade," with all the honors and emoluments thereto appertaining.

And yet, in spite of this peculiar advantage, the hold of the papal government over its subject territories was never quite secure. As compared, for example, with the Kingdom of Naples (*Il Regno*) or the Republic of Milan, it could never command the kind of loyalty necessary to the upbuilding of a permanent political state. The dramatic proof of this came when the Papacy, under pres-

1. See Bartolus, *De Guelphis et Gebellinis*, Introd., pp. 255–272.

sure from France, deserted its post and for two generations, beginning with the fourteenth century, settled into a comfortable and luxurious "exile" on French soil. The popes of this period were all Frenchmen, chosen and maintained in power by the French majority in the College of Cardinals whom they had themselves "created." Their interest in Italy was a purely theoretical and economic one. Except as a source of revenue, it had value for them only as furnishing the tenuous thread which bound them to the See of Peter. Even financially it was proving less and less profitable.

The actual administration of government, and, of course, of finance, slipped out of the hands of the nominal representatives of the Papacy, the provincial Rectors, and was taken up by a multitude of greater and lesser "tyrants" whose authority rested solely upon force and on their ability to conciliate the loyalty of their subjects. Rome itself, the City, hardly enters at all into the question of sovereignty over the lands of the *Chiesa*. Only sentimentally could it be described as the capital city of a papal state. The same spirit of independence that dominated the smaller communities was always smouldering at Rome, and showed itself there from time to time in specially flagrant outbreaks of despotic or democratic fury.

Such was the condition of papal sovereignty in Italy at the accession of Pope Innocent VI (1352–1362). Frenchman as he was, and a Limousin Frenchman at that, he had no intention whatever of settling the Italian problem by any form of direct personal contact with his turbulent subjects there. The enterprise, however, claimed his attention from the outset, and within a few months after his accession he commissioned the ablest agent whom he could possibly have found, to undertake the work of restoration in his stead.

Egidio Albornoz is one of the outstanding figures in the long history of the papal administration. A Spaniard of high birth, trained at first in the military career, he entered the clerical profession in mature life and was advanced rapidly to its highest honors. His elevation to the cardinalate as Cardinal-Priest of San Clemente in Rome, in 1350 [1] was a recognition of his services as Archbishop of Toledo and Primate of Spain, in the continuous warfare against the Moorish occupants of Andalusia. At the time of his appointment Albornoz was just over fifty years of age, a seasoned soldier, statesman, diplomat, and prelate, of unblemished character, sound learning in the law, and with a rare sense of proportion in his dealings with men.

Proclamation of the intended expedition was made by Pope Innocent to the rulers of Italy, urging them to receive his legate with courtesy and to give him every aid in their power in carrying out his difficult task. The appeal is, of course, to these rulers as faithful sons of the Church, to rescue her territories from the "sons of perdition" who had forcibly and unlawfully taken possession of them; but, in fact, that kind of loyalty did not exist in Italy. If Guelph interests supported papal claims, it was not from any special devotion to the successor of Peter as such; and if Ghibelline partisans opposed those claims, it was from no lack of technical fidelity to the papal religious system. On both sides it was a pure question of politics, and all documents must be read with this clearly in mind. Whatever support Albornoz could expect must be founded upon the self-interest of each separate power with which he had to deal.

This was especially clear in the case of the great north-

1. At the close of the year 1355 he was made Cardinal-Bishop of Sabina. Theiner, *Codex dipl.*, II, 317.

ern principality of Milan, at that time under the capable rule of Archbishop Giovanni Visconti. A churchman himself, Giovanni's personal and family ambitions pointed straight in the very direction which it was the mission of Albornoz to counteract. Already, in his southward push, he had gained control of Bologna, the key to Tuscany and the vantage-point from which all central Italy could be threatened. To be sure, he held this key position as "Vicar" of the Holy See and by virtue of a papal grant under the overlordship of Rome, but, in fact, his grip upon it seemed too firm to be shaken by any merely formal legal restrictions. His reception of Albornoz's mission was, therefore, by no means a simple problem. If he hunted with the papal-Spanish hounds, he would offend all those Ghibelline elements to which he looked for alliance in his schemes of expansion. If he ran with the Ghibelline hares, he was bidding open defiance to the papal overlord from whom he hoped to gain sanction for these same schemes.

It is a tribute to the far-seeing courage of Albornoz that he struck directly at this most crucial point. Armed with a papal brief and backed by a motley crew of fighting men of all nationalities, he crossed the Alps in the late summer of 1353 and was in Milan by the middle of September. The delicacy of the situation was shown by the fact that ambassadors from the most important Ghibelline leaders in the Romagna had already been working at the Milanese court to create hostility to the Legate. Their success was, however, only partial. The Archbishop did indeed persuade Albornoz to change his original plan of moving southward by way of Bologna and to take the route through Tuscany. He provided him with two legal advisers and promised him a small contingent of soldiers if they should be needed.

Thus fortified, the Cardinal-Legate moved on, first to Pisa, and then to Florence, where he was received with the enthusiasm proper to the most important Guelph community of all Italy. Here began the preparations for the first active exhibition of his legatine powers, the campaign against Giovanni di Vico, "Prefect" over a group of territories in the *Patrimonium*, with headquarters at Viterbo. A year of rather pitiful negotiations and intermittent military exploits brought this chief among the *filii damnationis* to heel, and established the reputation of Albornoz as at once a dangerous enemy and a clever practical politician. The settlement of the *Patrimonium* in the autumn of 1354 was typical of the Cardinal's whole policy. It is described by his biographer, the Spaniard Sepúlveda, and is clearly reflected in the reply of Pope Innocent VI to his formal report of progress.[1]

Two principles governed the disposition of the recovered territories: first, complete submission to the papal overlordship, without reservation or question of any kind; and then, when this was secured, as generous treatment of the former opponents as was consistent with the maintenance of this security. In the judgment of Albornoz the second of these principles was of no less importance than the first as a means of impressing other actual or potential rebels with the power of Rome. Even so outrageous a specimen as this Giovanni di Vico was not to be put to death, or driven to despair by the hardly less severe penalty of permanent exile. He was to receive an honorable provision and was to be left as Lord of Corneto for twelve years, under papal control.

When this settlement was reported to Pope Innocent at Avignon, he was greatly disturbed. He had no faith in the promises of a notorious liar like Giovanni and directed

1. Theiner, *Codex dipl.*, II, 260–266.

his legate to show him no consideration whatever. Albornoz, however, was not lightly to be turned from his purpose. He replied to the pope that, if he had followed his own feelings of indignation, he would not merely have deprived the rebel of every dignity, but would have given him the severest punishment. He was, however, convinced that all personal feeling should give way to the public good, and, while a severe penalty would have turned the hearts of other "tyrants" against the Church, the gift of an office would attract them toward submission. In support of his contention he cited the example of the most famous military commanders of history.

The proof of the wisdom of Albornoz's policy was seen in the rush of the petty tyrants of Umbria and the *Patrimonium* to make their peace with him on similar terms. So that, by the close of the year 1354, he was free to turn his attention to the far more important feudatories of the Romagna beyond the Apennines. The chief of these were the Malatesta of Rimini, who had spread their control over a great number of lesser Romagnol territories. The story of the *Patrimonium* was repeated here. The attitude of the ruling Malatesta was at first absolutely intractable and defiant. He believed that he could count upon the attachment of his neighbors, who had thus far looked to him for the kind of support they needed to maintain their independence. Yet precisely here was to be found the entering wedge by which Albornoz was to split the dangerous combinations of Malatesta. His policy was to undermine the influence of Rimini by showing the superior advantages of a return to the gentle overlordship of Rome.

At the same time he took every possible means to collect troops and the money to pay them with. The advent of King Charles (IV) into Italy, though perhaps unwelcome to Albornoz, gave him an opportunity to take ad-

vantage of the king's obvious interest in keeping on good terms with the Papacy — at least until he should receive the imperial crown at Rome. Charles responded with a substantial loan of fighting men and, perhaps, a gift of money. It was probably a part of the pope's plan that his trusted legate should take a leading part in the coronation ceremonies. Why he did not do so is not explained by documentary evidence; but it seems reasonable to suppose that he felt his duty to be rather in completing his preparations for war than in assisting at a meaningless ceremony.

At all events, he soon found himself so strong that in the early summer of 1355 he was ready to take the field against Malatesta and his supporters. It was quite characteristic of the military methods of the day that, when the hitherto defiant rebel found himself outnumbered and outplayed, he gave up the fight and offered terms of surrender. The substance of these terms was that the sovereignty of the Church over the disputed territories was absolutely confirmed. The Malatesta were reinstated in their administration as papal vicars for ten years, and were absolved from the spiritual and other penalties incurred by their previous insubordination.

Thus was the policy of Albornoz abundantly vindicated. It remained only to dispose of a few remaining tyrants, such as Ordelaffi of Forlì, who succeeded in keeping the Legate busy at intervals during the next four years. He established himself at Ancona as his permanent residence, and from there exercised a ceaseless vigilance over the slippery vicars to whom he had entrusted the direct administration of the recovered territories.

By the year 1357 Albornoz found himself so completely master of the situation that he could proceed to a thorough-going reorganization of the administrative sys-

tem of the papal government. Something had been done by his predecessors in the office of legate, and Albornoz often begins a chapter of his legislation by quoting some previous enactment which he then proceeds to confirm and to expand. With this limitation we may fairly describe the *Constitutiones Egidianae* as a piece of distinctly original legislation. It is the work of a man who was, and knew himself to be, superior to the absentee ruler whose official agent he was. He knew the people with whom he had to deal. He sympathized with their political ambitions, and he believed that these would be better attained under an orderly and unified administration than under the lawless individualism of a horde of conflicting and constantly shifting tyrants. At the same time, he could appreciate the force of that loyalty to local tradition which caused the citizens of many of the Italian communes to cling to their native despots with a curious tenacity. To restrain excesses without stifling the creative and constructive spirit of these turbulent democracies, was the motive that lends dignity and human interest to the often wearisome detail of Albornoz's enactments.

The formal promulgation of the new law-book took place at a great assembly of representatives from all parts of the papal state, at Fano, in the month of April, 1357. The account given by Matteo Villani (VII, 61) is as follows:

> The Cardinal of Spain, Legate of the Pope, had, as we have seen, won back to the Church all the lands in the Patrimonium, the March of Ancona, the Duchy of Spoleto, and the Romagna, which had long been in the hands of usurpers, with the exception of those held by the Lord of Forlì, and every preparation had been made to recover these as well. At this point the Pope, whether of his own motion or at the suggestion of the Cardinals, or at the request and on the initiative

of the Legate himself, named as his successor the Abbot of Clugny, with full powers to complete the remaining miltary undertakings of the valorous Cardinal of Spain. . . .

And when the new legate had been installed, the Legate summoned to Fano all the more important chiefs of the Patrimonium, the Duchy, the March, and the Romagna, together with representatives from the Communes, and in this assembly the Cardinal delivered an address praising those whom he had found faithful and loyal to the Church and calling upon them all to remain obedient to Holy Church and to serve the new legate as they had served him. He commended in high terms the noble qualities of his successor, and declared his own intention to return to the papal court at an early day. This was on the 27th of April, 1357.

The wise heads of the Assembly, foreseeing the danger to the country, which was not yet freed from war, if the Cardinal Legate should leave, — a man who had the affection of all and was experienced in public affairs, — begged him with one accord not to leave the country before the following September. The Abbot himself, on his part, earnestly seconded their request, pleading the great profit it would be to Holy Church. And so the Cardinal, recognizing the necessity of strengthening the advantage he had gained, consented to yield to their wishes for that length of time.

In the autumn of 1357 Albornoz found the condition of things in Italy so far satisfactory that he could allow himself a long-desired release from immediate responsibility. Leaving the Italian legation in the none too capable hands of the Abbot of Clugny, he presented himself at the papal court in Avignon, where, in spite of some rather petty criticism, he was received with elaborate expressions of gratitude and approval. His holiday lasted, however, only about a year, when the incompetence of his successor caused the pope to despatch him again to Italy. Two undertakings of the first importance occupied

the remaining years of his life. One was the recovery of Bologna for the papal government; the other was the breaking up of the Free Companies.

So long as the Visconti tyranny in Bologna lasted, there was little hope of unity among the scattered territories of the papal complex. The Free Companies of hireling soldiers, under capable but absolutely unscrupulous leaders, with their readily shifting contracts, were continually upsetting the very unstable equilibrium of these loosely federated states. By ever new displays of his persistent tactics, by alternate exhibitions of force and prudent concessions, the great Cardinal solved for the time being these two fundamental problems of Italian politics. It can hardly be questioned that it was his achievements that broke the spell of French influence upon the Papacy and left it no further excuse for prolonging the solemn farce of an "exile" from Rome. In the spring of 1367 Pope Urban V made what appears to have been an honest attempt to bring the chair of Peter back to the diocese which gives it its ideal claim to superiority over all other sees of the Christian world.

Landing at Corneto, he took up his temporary residence at Viterbo in the fortress which Albornoz had built to curb the tyrants of the Patrimonium. It is here that the chronicler of Gubbio [1] places the pretty, but probably apocryphal, story of Albornoz's account of his stewardship:

> Cardinal Egidio was accused of maladministration of the revenues of the Church because he did not make larger returns. Being asked to render an account, he called for a wagon, piled a great quantity of keys upon it, and presented

1. *Cronaca di Ser Guerriero da Gubbio*, in Muratori, *Scriptores*, XXI, pt. IV, p. 16. The date given here, 1360, is obviously incorrect.

himself before the pope and the cardinals, saying that he could give no better account than that he had recovered for him the aforementioned provinces, and here were the keys of the towns!

The remaining ten years of Albornoz's life, after the publication of the *Constitutiones*, were spent in unceasing efforts to maintain and to strengthen the political structure which he had re-created with such extraordinary skill and success. The crowning triumph of his legatine activity was the return of Pope Urban V to Rome in May, 1367, an event made possible only by his reduction of the papal states to at least a formal submission to papal control. In this triumph he was not permitted to share. He died at Viterbo in August, while the pope was still postponing his entry into the Eternal City.

If we analyze the contents of this legislation with especial attention to those subjects which are of most general interest to the student of history and government, we find it dominated throughout by the two well-marked principles which we have already indicated. First, and underlying all the rest, is the absolute and unqualified temporal lordship of the Holy See in all the territories covered by these enactments. This principle is declared to be a matter of universal recognition (*noscitur*), and it is enforced by the most comprehensive and emphatic exclusion of every other sovereignty (IV, 17, *vide* pp. 238 ff.). Beginning with the Empire, this wholesale prohibition extends downward through the whole scale of political dignities to the local magistrates of provinces and towns, together with their aiders and abettors. Whoever shall usurp any executive office or be elected thereto without the express approval of the Holy See shall *ipso facto* incur the penalty of excommunication, with confiscation of goods

and nullification of all executive acts; and the same ruling applies to the community which shall have elected or accepted such official.

How important this fundamental principle of sovereignty appeared to Albornoz is shown by the elaboration of detail in the chapters devoted to it. Not a loophole is left for the escape of the cleverest politician, if only he can be brought within the sphere of action of this well devised legal system. We have to bear in mind also that this same *potestas temporalis* was the object of the most bitter attack, not only from rival powers, but also from most loyal and devoted servants of the Church. This was the age of Wycliffe. The echoes of Marsiglio of Padua were still ringing through the world of thoughtful men. William Ockham, the liberal Franciscan, had died in 1349. Italy had not forgotten the devastating raid of Ludwig the Bavarian in 1327–28. His successor, Charles the Bohemian, was even now in Italy playing the double game of sovereign emperor and papal advocate — proving once again that "there cannot be a Ghibelline pope or a Guelph emperor." So that these were no imaginary dangers against which Albornoz was providing such safeguards as could be set by legislative process.

A second guiding principle is seen in the measures directed against internal disorder and usurpation of powers. At the basis of the administrative system was a division of the whole state into provinces, as defined in the vicarial commission of the legate (p. 217). At the head of each province was the Rector, the responsible agent of the Papacy for all public business. The Rector was surrounded by a group of judges, notaries, and other officials, whose salaries and emoluments are elaborately defined. Here is evidently the material for a hard-and-fast bureaucracy, which, like its kind everywhere and always, might

readily come to have rights dangerous to the papal overlordship. Albornoz seems to have shared, or at any rate recognized, the universal Italian jealousy of such bureaucratic control and to have adopted the usual precautions against it. The most curious of these to our ways of thinking is the prohibition of office holding in one's own community. A long chapter (IV, 23; *vide* p. 247) lays down this principle in the most absolute terms. The offence of being elevated to "any superiority of power or of rank above one's fellow citizens" is unqualifiedly declared to be a "*sacrilegium*," that is, literally, the robbery of something sacred. This sacred something was nothing less than that theoretical equality in all public affairs which underlay the complicated system of the Italian city-state. To violate this was to touch the most sensitive spot in the Italian political consciousness of the fourteenth century, and no penalty could be too severe to atone for it. In this priest-governed state the person guilty of such usurpation shall incur the pains of excommunication, shall, *ipso facto*, forfeit his property to the Roman Church, and shall be excluded from all public offices and honors. Communities electing or accepting such native-born or resident officials fall, *ipso facto*, under the interdict, are subject to a heavy fine, and lose the right to elect their own *podestà* together with all their former privileges and immunities. The obvious effect of this prohibition rigidly enforced would be to cause a continual interchange of executive officials — "*podestà*, *capitano*, *gonfaloniere*, *conservator*, *defensor*, *protector*, or by whatever other name he may be called" — among the several provinces and towns of the Patrimonium, and thus to foster a sense of unity in the papal state as a whole.

The same idea is carried out still further by insistence upon a third principle: brevity of official terms for execu-

tive officers. Six months is fixed as the legal limit, and at the end of that time neither the occupant nor any fellow citizen of his nor any member of his family to the third degree may be chosen to the same office until after an interval of two years. The motive of such exclusions is sufficiently explained by the whole history of Italian tyranny; for this process of extension of committed powers was one of the commonest methods of "tyrannical" usurpation.

One of the most interesting chapters is that devoted to the so-called "syndication" of public officials. At the close of his administration every officer was required to present himself at the court of the provincial Rector, and there to remain for a number of days proportioned to the duration of his official term. Within this time he was bound to answer before a board of "syndics" to any complaints that might be brought against him for any form of malfeasance in office. These syndics are not precisely defined, but they seem to have been representatives of towns or districts, either resident at the Rector's court or sent specifically to assist in the investigation of a given case. If the official hears no complaint during the first half of his syndication period, he may be released from further responsibility. If he escapes from the court to avoid judgment he may be brought back by force, and is then *prima facie* guilty, and his portrait shall be hung in a Rogues' Gallery for future use.

As one of the chief obstacles to a unified administration, the forming of leagues or associations of any kind is expressly forbidden. This prohibition is extended to the use of the existing parties as units of political action. No one may call another by way of abuse, "Ghibelline!" or "Guelph!" for the only allegiance which the law allows

is due to Holy Church, sovereign *in temporalibus* as well as *in spiritualibus*.

Finally, we have to note that while these principles are laid down with extreme distinctness and severe penalties are prescribed for their violation, the fundamental notion of Holy Church, even in its temporal aspect, as the administrator of a divine justice tempered by divine mercy, is never lost sight of. Every suggestion of vindictiveness is carefully avoided. The most obstinate rebel, if he will only show repentance and a sincere desire to live in harmony with the rule of the Church, finds the way of recovery open to him. That these were not empty words is proved by the whole story of Albornoz's dealings with the recalcitrant tyrants of the Romagna. Submission first, and then coöperation in the common problem of decent government.

The text of the *Constitutiones Egidianae* has come down to us in several editions. The earliest of these was printed at Iesi in 1473. It was followed by ten others, down to 1605. In 1912 a new edition, based upon a careful comparison of the existing manuscript sources, was published at Rome by Pietro Sella, in the *Corpus Statutorum Italicorum*, of which he is the Director. In describing his editorial method Professor Sella calls attention to the careless and arbitrary procedure of his predecessors, and claims only to have given as faithful a reproduction as possible of the original and often very corrupt text. He has chosen to retain many obvious "mutilations and errors" rather than to venture upon conjectures which might distort the meaning. In other words, he has thrown the burden of conjecture upon the reader, and in not a few cases I have found assistance in the less literal, but

more intelligible earlier editions. Of these the Harvard College Library has those of 1543, 1571 and 1605.

In making a selection from the *Constitutiones* such have been chosen as seemed best to illustrate the organization of the papal system of government and also to display the peculiar talent of Albornoz as a pacifier of rebellious territories surrounded by powerful enemies and honeycombed with sedition. References to the text are to the edition of P. Sella, 1912.

SELECTIONS FROM THE ORDINANCES OF CARDINAL ALBORNOZ, AS PUBLISHED AT THE PARLIAMENT OF FANO, APRIL–MAY, 1357

IN the Lord's Name, Amen.

Proemium to the Constitutions published by the Very Reverend Father in Christ, the Lord Egidius, by divine grace Bishop of Sabina, Cardinal, Legate of the Apostolic See, and Vicar General in temporal affairs for all the lands of Italy this side of the Kingdom of Sicily, at a general assembly of the aforesaid lands held at the city of Fano and adopted by the said assembly on the last day of April and the first two days of May in the year of our Lord 1357.

It is our anxious desire, in fulfilment of the office entrusted to us, that the faithful subjects of the Church should be governed in due accordance with law, so that those who are worthy may be protected in the enjoyment of peace and quietness and that harmful desires may be checked by suitable restraints.

Therefore, we, Egidius, by the grace of God Cardinal-Bishop of Sabina, Legate of the Apostolic See and Vicar General of the provinces and towns of the Church in Italy on this side of the Kingdom of Sicily, in view of the great multitude of ordinances of rectors and officials of the Church in the aforesaid territories, the original authors of which cannot be ascertained by reason of their antiquity, and considering the quantity of decrees of the Roman pontiffs transmitted under seal, of which the original seals have been lost through the carelessness of users, and all these ordinances having been sent hither by our order and examined and several times revised by ourself and by learned legal experts whom we called together for the

purpose, we have, after great labor, ordered this one new volume of our present ordinances to be made for the honor of the Church.

In this volume what is useful has been retained; what is useless or superfluous or contradictory has been cut out. New provisions have been made to fit the circumstances of place and time and subject matter. Such laws as are just, honorable, useful and not oppressive, have been digested with every possible consideration and have been arranged in due order under suitable titles in six books. In the first book is contained the text of the commission given us by the Supreme Pontiff defining our legatine and vicarial powers and concerning the publication of ordinances; then, papal decrees which we have found in the aforesaid books. Some of these, although they refer to a certain province and not to others, we nevertheless publish as applying to all the aforesaid provinces and towns of the Church.

In the second book are ordinances pertaining to rectors and officials and to the proclamation and maintenance of public laws. In the third book are laws relating to rectors and judges in spiritual matters; in the fourth, laws defining the punishments for crimes, in which the penalties are fixed with leniency in almost all cases, and in only a few are left to the discretion of the judge. In the fifth book are laws relating to the functions of civil judges, and in the sixth and last are those pertaining to the office of appellate justices, and with this the volume is complete.

We order, therefore, that the laws herein contained shall be observed inviolate by all rectors, peoples and officials or other persons, and we declare all other ordinances of any rectors or officials whomsoever in the said provinces and towns of the Church, published in the said places or in their assemblies but not contained in this volume, to be cancelled and of no effect.

CONSTITUTIONES EGIDIANAE

Vicarial Letter, whereby his Lordship Egidius is appointed Vicar of our Lord the Pope [1]

Innocent, Bishop, servant of God's servants, to his beloved son Egidius, Cardinal Presbyter of the Title of Saint Clement, Legate of the Apostolic See and Vicar General *in temporalibus* of ourself and of the Roman Church in the Patrimonium of St. Peter in Tuscany, in the territories of the Duchy of Spoleto, the March of Ancona and Romandiola, of Campania and the Maritima and in all the lands and cities directly or indirectly under the temporal sovereignty of the Roman Church within the limits of your Legation,

Greeting, and Apostolic Benediction!

Whereas the burden of government over the whole flock (of Christ) has been laid upon us, conscious of our own imperfection and seeing that we cannot give due attention to the details of our apostolic service, we call to share in our solicitude our brethren, the Cardinals of the Holy Roman Church, men chosen out of thousands, endowed with knowledge and virtue, in whom a holy fear of God abides. We send them to the different provinces and regions of the earth to attend to pressing affairs and with their praiseworthy assistance to relieve our burden, so that we may the more easily and efficiently fulfil the commission entrusted to us. And although we extend the protection of our ever watchful attention to the care and regulation of all followers of Christ, as their shepherd and governor, nevertheless we regard with especial affection the provinces temporally subject to the Apostolic

1. I, 1, p. 4; Theiner, *Codex diplomaticus*, II, 248.

See and their several peoples, as devoted spiritual children of the Roman Church. We feel an especial anxiety to provide for their proper government and for their prosperity and happiness.

Wherefore, knowing you to be a man of power in word and deed, experienced in great and arduous undertakings, of distinguished fidelity and proved integrity, endowed by the Lord of Grace with vast learning, with notable diligence, with mature counsel, elegant manners and other great qualities — one whose character, we confidently believe, is fitted to reconcile dissensions, to quiet disorder and confusion, to respect the limits of justice and to bring back the erring to the ways of truth — none of which in the nature of things, can we in our absence accomplish, while you with God's help can carry them through wisely, diligently and successfully, — after mature deliberation with our brethren, and with their advice and consent do appoint you, for ourselves and for the Roman Church, Vicar General *in temporalibus*, Reformer and Conservator of the Peace and Pacificator General in the Patrimonium of St. Peter etc., for reforming, ruling, governing, and administering them in so far and in such ways as belong to the Roman Church; with power to hear both civil and criminal cases in person or through others, to examine, and discuss them, or to entrust such examination to others in general or in special cases, also personally if it seem best to you to review them, — also in your discretion to deprive all and several, in whatsoever rank or dignity, authority, nobility, or station they may be, if justice requires it, of their positions and offices, their duchies, marquisates, earldoms, lands, fiefs and after-fiefs, their rights of jurisdiction, privileges, property, personal or real, and to seize and apply all these to the uses of the Roman Church.

Also in the Patrimonium etc. so far as pertains to the Roman Church, to create, establish, suspend, remove, depose and deprive rectors, vice-rectors, podestàs, captains, standard-bearers, castellans, justices and other civil officials, general or special, and also the aforesaid offices and all others, general and special, by whatever name or title they may be exercised or called.

Also, in cases of wrong-doing, to punish the offenders by civil or criminal process in person or through others, to hear complaints against them by whomsoever made, summarily and out of court, also to give judgments and cause due compositions and compensations to be made between princes, dukes, etc. and to reconcile all discord within the Patrimonium etc., to establish truces among them and compel their observance by penalties or bonds or judgments, so far as pertains to the aforesaid Church; to confirm those who are united in the bonds of unity and affection, *but* to break up and annul all associations, confederations, compacts, agreements, societies and leagues formed or planned against the Roman Church or against the peace and order of those regions, or to the injury of the Patrimonium, etc.; to release penalties imposed upon them, to take and restore property unlawfully held in possession.

Also to grant dispensation for exiles deprived of their property, for rebellions undertaken by any associations or individuals, or which may be undertaken during the time of your vicariate — to reconcile all such and to bring back such offenders to the favor and obedience of the Roman Church, to remove any disabilities or loss of honor which they may have incurred and completely to restore communities or individuals of this class to their former status.

Also to summon, assemble and organize military forces, regular or special, for the assistance of the Church and to maintain peace in the Patrimonium etc. and to resist the enemies of the Church and disturbers of the peace and any others and at such times as may seem best to you.

Also to restrain and compel enemies, rebels and opponents by sentences of deposition or removal, banishment or proscription, perpetual or limited, so far as pertains to the Church, and when appeal is denied; but in case appeals to the Apostolic See are allowed, to hear and settle them in due form.

To do, order, decree and execute as may seem best to you whatsoever pertains to the office of this plenary vicariate in temporal affairs and in the work of reform, and as may be necessary or useful in the above mentioned or in related matters, and in whatever may conduce to the honor and advantage of the Roman Church or to the profit, prosperity and peace of the Patrimonium etc.

All privileges, indulgences, apostolic or imperial letters under whatsoever form of words or phrases, contradictory statutes, customs, or observances of the Patrimonium etc. *to the contrary notwithstanding*. It is our will that through such enactments no authority [*suffragium*] shall be conferred upon any person whomsoever, of whatever rank or station in this matter, but that your liberty of action shall be full and free.

It is our will that the powers of this vicariate shall continue until otherwise ordered by the Holy See.

All suits, judgments, and penalties decreed by you in due form we will accept as valid and with God's help will see to it that they be held inviolate.

We do not intend by these presents any prejudice against the rectors and officials in the Patrimonium etc. who were appointed by the Apostolic See, which might

prevent them from exercising as freely as before the rights of jurisdiction granted to them.

Wherefore, in order that you may the more efficiently, completely and usefully exercise the above mentioned functions, all and severally, we strictly enjoin upon each and every one of our rectors etc. in the Patrimonium etc. of every rank and station by these presents to give you effective obedience and assistance. . . .

Given at Villeneuve in the Diocese of Avignon, May 30 of the first year of our Pontificate. (1353)

The Functions and Official Oath of the Rector of a Province [1]

The provident authority of law, following the sacred canons, and with wholesome consideration for the welfare and prosperity of the provinces and their inhabitants, has decreed that in each province there shall be one executive head (*praeses*) through whom it shall be efficiently governed and the wishes of the provincials be made plain. These provincial Rectors have, with good reason, been given full jurisdiction, with the power of the sword and the duty of inquiry into all kinds of cases. Their office, with its supreme power, has been distinguished by provisions of law, by the good will and sufferance of the Roman pontiffs, and also by praiseworthy custom, with a great variety of honors and privileges. While all these are to remain inviolate (except in so far as they have been or may be modified by the Apostolic See in special cases, and excepting the provisions laid down in the present volume which we require to be observed by the provincial Rectors) it has seemed best to us to point out especially certain requirements of the rec-

1. II, 1, p. 38.

torial office which, if passed over in silence, might seem to be disregarded by us.

It is the duty of a good and prudent rector to give his unremitting care to the preservation of peace and order in his province, to govern the same and to hold it in true loyalty and obedience to the Roman Church and to the Roman pontiffs, under whose absolute sovereignty these provinces belong in spiritual as well as temporal affairs; to keep diligent watch and be ready with efficient measures to prevent tyrannies from being formed or even a spark or rumor of rebellion to arise, and in good faith to exterminate from all his lands heretics declared by the Church to be such. He shall also defend the rights and properties of the Roman Church and recover them in case of loss to the extent of his ability. He shall rescue churches, widows, orphans, paupers, and all unfortunate persons from oppression and shall protect their rights by prompt and favorable decision of their cases, and shall purge all places in his jurisdiction from evil doers. He shall administer justice and see that it is administered to all without respect of persons, shall prevent unlawful exactions, remove scandals and discords and encourage peace and harmony among the people of his jurisdiction.

The Rector himself must have clean hands, as the law requires, and keep himself absolutely free from bribery, illegal exactions, and extortion. Let him give his best endeavor to the administration of all business belonging to his office. And, to the end that peace and order may the more abundantly be established according to our desire, we decree that whenever the good order of the cities and territories entrusted to the government of a rector shall be disturbed he shall have the duty and the power to restore it at his discretion, in person or by his agent, in such ways as the public welfare, the honor of the Church, and the condition of the province may require.

Further, since it is not likely that anyone, especially one entrusted with so great a responsibility, will be unmindful of his eternal salvation, but that he will persistently observe what he has thus solemnly vowed to maintain, we decree that every rector of a province of the Roman Church, in the first public assembly which he shall summon after his entry into the province assigned to him, shall be required to take a carefully worded oath as follows:

The oath shall expressly declare that the rector is and forever will remain a faithful follower of the Apostolic Faith and of the Roman Church; that he will never oppose it, nor, so far as possible, permit any other person to do so; that according to his conscience he will show himself a faithful servant of said Church and of the Supreme Pontiff in the administration of the duties committed to him; that he has given and will give nothing whatever, to any person by way of obtaining his office; that he will examine and protect with all diligence the fiscal rights of the Roman Church in the territories committed to him; that he will, to the best of his ability, drive out all heretics designated by the Church and will protect with paternal care the faithful subjects of the Church and of the Supreme Pontiff and preserve them from all injury so far as he can; that he will be fair to each party [1] in public affairs and show no more favor to one party than is equitable, that he will search out all wrong-doing and administer justice as shall seem right to him; that he will keep his hands clean of all venality and simony and unlawful exactions; that he will appoint to

1. This seems to be a distinct recognition of the two-party system in the government of Italian communities. It implies an effort on the part of the Church to maintain as far as possible a bi-partisan administration with an equal division of officials.

the offices of his courts men good and law-abiding and suitable, to the best of his knowledge and ability, and if any of these after their appointment shall prove unworthy or unfit, he will remove them and appoint suitable persons in their place.

He shall faithfully observe all the regulations contained in this present volume and shall see that they are maintained inviolate by his officials, councillors and others as belongs to each one of them.

Of the Number and Description of the Officials in Each Province [1]

Whereas the Rector alone is not able to give sufficient attention to all the duties of his office, but must have officials and ministers to aid him therein and relieve him of such burdensome tasks as are unsuitable for him:

Therefore, following ancient custom, we decree that the Rector of the March of Ancona have power, for the better execution of his functions, to appoint seven good men, competent and well tried judges, skilled in the law; one Marshal of good judgment and well proven in arms; and twenty-four good, experienced and lawful notaries. Of the judges, four are to reside at the court of the rector in the place where the court has its seat, and they shall be called the Judges of the General Court of the Rector of the March of Ancona. One of them shall be a cleric, skilled in the Canon Law and he shall be called judge in cases belonging to the *forum ecclesiasticum*. The second shall be called judge in cases brought on appeal to the General Court of the Rector. The third shall be the criminal judge, and the fourth the civil judge of said court.

The remaining three shall be judges of Presidencies and

1. II, 2, p. 41.

shall be so called; namely, one of the Presidency of the Abbey of Farfa, the second of Camerino, the third of San Lorenzo in Campo. They are to be sent out separately to these several Presidencies. (Distribution of the Notaries.)

Each of the four judges of the General Court and also the advocate of the Fisc is to receive from the Camera of the Roman Church by its treasurer in the March a salary of 100 gold ducats for each year of service, payable *pro rata* in monthly instalments; and besides his salary six gold ducats a month for expenses. The judges of the Presidencies shall have the usual salary. The marshal shall receive from the said Camera and treasurer for each month of his service, two *postas mortuas* for his family, and his horse and six *postas vivas* [1] for six squires, good and well armed men with good horses, whom he is to keep continually in his service at the usual pay for mounted mercenaries of the Church in the March, or at the current wage for mercenaries at the time.

The notaries are to receive no salary from the Camera but only from the parties whom they serve by their writings as is prescribed later.

The judges and notaries shall under no circumstances be natives or citizens of the March,[2] or regular inhabitants

1. The precise meaning of this passage is not clear. No one of the many definitions of *posta* given in DuCange seems to fit this case exactly. The nearest conjecture, for which I am indebted to my former pupil, Professor W. E. Lunt of Haverford College, is that the word means here simply "horses" or perhaps "post-horses." The mention of *coria equorum mortuorum* as a perquisite of the Marshal in another papal document may explain the word "*mortuas*" here.

2. Although the provisions of this section are technically designed for the March of Ancona they were doubtless intended to apply to all the provinces of the Patrimonium, in accordance with the general statement in the Proemium (p. 215).

thereof, unless the Rector may see fit to dispense certain notaries attached to certain judges, sitting in civil cases only, from this requirement, on account of their loyalty and ability. And the same rule is to be strictly enforced in the other provinces as well.

Further no one of the judges or notaries shall hold the same office continuously for more than one year, unless in the case of one or more of them, exemption be given by the Rector on account of their ability or usefulness, for a second year only and for no longer. But no person shall be appointed as Marshal who is related to the Rector within the fourth degree by blood or marriage.

Of the Life, Character and Conduct of Rectors and their Officials [1]

Whereas, according to the witness of our laws, to whom much is entrusted, from him a higher degree of honor and dignity is required:

Therefore we ordain and establish that the Rector, who has so arduous a function to perform, and the members of his official family, each according to the principles of honorable conduct, shall refrain from all unlawful actions and wicked extortion. They shall not presume to accept anything beyond the regular payment fixed in this present volume, nor shall they receive anything therein prohibited.

And since, as the law declares, the hearts of judges are corrupted by eating and drinking, the officials of the Rector shall not receive gifts of this kind, either in person or through others; neither shall they forcibly compel anyone to sell them grain or wine or other provisions, but they shall buy only what they need and what is freely sold to

1. II, 4, p. 45.

them at a fair price actually paid to the dealers before the goods are accepted. Except that, in cases where through the ill will or inability of the inhabitants, things necessary to the execution of their office, such as food, lodging or beds, cannot be purchased, they may with due moderation and restraint compel those who have them to sell them or rent them at a fair price.

The Rector shall also require his officials to lead honorable and settled lives. He shall not permit them to wander about or to be involved in loose and quarrelsome ways. Nor shall anyone who does not really belong to the staff of the Rector or his judges or officials and regularly live with them take the name of such association under false pretenses or under cover thereof oppress the subjects by unlawful exactions.

The members of the official household shall not be natives or citizens or regular inhabitants of the province; for it is not fitting that anyone under pretense of this relation should gain acquaintance or favors by which he might oppress his fellow citizens in any way. We decree also that the rector shall not within one year appoint anyone who is at the time or who has previously been a member of his staff to the position of podestà or vicar or by any other title in a district where the podestà or other magistrate is regularly appointed by the rector or by the Church. Nor shall such staff members be chosen by anyone for any office in any place of the aforesaid district or elsewhere lest perchance, if they commit unlawful acts and their subjects are afraid to complain, their offences should go unpunished, and the subjects be unjustly oppressed.

But this prohibition does not apply to castellans or wardens of fortresses and strongholds. To such offices the Rector may appoint members of his household or other trustworthy men as may seem best to him.

The aforesaid prohibition applies also upon corresponding terms to the treasurer of each province and to the members of his official family.

We desire also that a certain decree of the Lord Reformator above mentioned [Bertrand of Embrun] be confirmed and strictly enforced, in which he ordered that no person native to the province or having his home or legal residence there should accept gifts of clothing or other things from the rector or the treasurer — and that these officials should not permit such things to be given to them with or without pay. In case of disobedience he ordered that, in addition to the penalty of excommunication they should pay a fine of 100 gold florins *ipso facto*.

But these prohibitions as to receiving gifts by officials born or resident in the province shall not apply to the chaplain (if the rector chooses to keep one) nor to persons of humble station kept to perform menial service as, for instance, muleteers, donkey-drivers, wood-carriers, cooks, water-carriers and the like.

The rector may also, to maintain his dignity and for the better performance of his duties, keep with him in his court or dwelling-house a criminal and a civil judge, or either of them, as he shall see fit, and for the expenses of such a judge and one horse and one servant and one water-carrier the rector may draw upon the treasurer for six ducats or gold florins a month for each judge, this being the regular allowance ordered for expenses of this sort in a former decree.

When the rector shall keep with him one or both of said judges, he may also have notaries assigned to each for the conduct of business, and for these he shall provide maintenance, food and drink, receiving in payment one-fourth part of their fees for preparing documents.

The other judges of the rector's court — and also the

aforesaid two when not residing with him — shall live in respectable, open places in the neighborhood, in such style as is becoming to them. Each judge may have with him at his residence all the notaries assigned to his office. The notaries shall live there regularly with the judge on their allowances as may be arranged between them and the judge.

It is our will and command that in accordance with our decrees no notary shall presume to play at dice or games of chance or at any prohibited or fraudulent game at which money or anything else may be lost, under the penalty of five *libris denariorum* for each offence.

Further, since officials ought to be content with the pay assigned to them and accepted by them, and since it is becoming that rectors, their officials and house servants should await the payment of their stipends with exemplary dignity, we decree that no person shall presume to corrupt any judge, notary, *procurator fisci* or any other official or assistant or house servant assigned to any regular or special service or to the execution or prosecution of any business or cause whatsoever. Nor shall the officials, assistants or domestics accept any gift from any person subject to their jurisdiction, on penalty of deprivation of their office *ipso jure*.

The Office of Marshal [1]

It is expedient and fitting to set forth here the function of the Marshal and to explain what belongs to his office in this present decree.

The marshal is bound to execute in person or through his agents the judgments and damages imposed upon the persons or property of criminals by order of the rector

1. II, 7, p. 54.

or the presiding judge or his successor and also, upon the requisition of the treasurer, to collect damages assessed by a judgment of the treasurer himself. He is to pursue and arrest to the best of his ability criminals and persons condemned to punishment or payment of damages. He shall execute other judgments upon the order of these officials or any one of them and shall carry out other sentences against rebels and law-breakers as ordered for suitable cause by the rector. Whenever for any of these purposes he shall go outside the place of residence of the rector's court he shall take with him a written statement from the rector as to the purpose for which he is sent. He shall not take with him more than three [six] mounted men-at-arms and six footmen at the expense of others, nor at the cost of the Camera unless the offence on account of which he is sent be of such dimensions and the offending persons or communities be so strong that the marshal could not execute his commission successfully with the prescribed force. In this case the rector may increase the number of foot and horse up to two hundred, but with moderation, according to the necessity of the case, in good faith and for just cause; and this matter we lay upon the conscience of the rector himself. The number to be thus fixed is to be stated in the commission of the marshal.

In such an expedition, according to the prescribed form (but not in the employ of any private person) he shall have *per diem* going, staying and returning 8 silver anconites as pay for himself and his horse and his expenses; for each mounted man-at-arms who is in the pay of the Church $2\frac{1}{2}$ silver anconites and for each footman in the pay of the Church one silver anconite; but for each horseman not in the pay of the Church 5, and for each footman 2 anconites. Beyond this he shall not ask or receive

any pay or allowance whatsoever under any pretext or disguise.

These payments shall be made out of the property of those against whom the marshal or his lieutenant or his notary may be sent whether by a community or an individual. If, however, the expedition is against individuals and not on account of any offence of a community the community shall pay nothing toward his salary or his expenses; and if in such a case no property of the individuals can be found, then the treasurer shall pay these salaries out of the money of the Camera in whose interest the expedition was made. If the expedition is against several individuals and the execution is made in the same city or stronghold or district, the payment shall be made by them all *pro rata* — but if the marshal takes no part personally in the expedition he shall receive no payment even if it is voluntarily offered him.

The "Syndication" of Court Officials [1]

Whereas it is fitting and in accordance with law that every administrative officer should be required to render an account of his administration, it is expedient that each and every official employed by the Church or by the rector of a province on behalf of the Church should, at the conclusion of his term, present himself before the rector at his court and there remain a suitable time to give account of his service; and although decrees of Pope Boniface the Eighth, of former legates, rectors and reformators may be found treating of this subject in vague and general terms, we have thought that the substance of these ought to be reduced to a single decree as follows:

We order that every judge, podestà, rector or other official shall, immediately after the close of his term, ap-

1. II, 22, p. 96.

pear in person before the rector of the province in the place of his residence and of his General Court and shall there remain and give a complete report of what he has done during the term of the office committed to him by the same rector. He shall give answer to complaints brought against him and render full satisfaction as to his obligations to communities or individuals or to the Camera of the Roman Church. The time, however, during which he must remain for the purpose of thus rendering his account is limited and defined as follows: If his term of office was only six months he shall remain ten days; if longer, up to one year, fifteen days; if more than a year, twenty days; one month before the expiration of his term he shall give notice to the treasurer of its approaching end and the treasurer shall within eight days give notice of the expiration of the term and of the date when the official is to be "syndicated" to the communities where the said official is serving. In case these communities have a representative [*syndicum*] at the court, it is enough if the treasurer notifies these representatives residing at the General Court and they shall then, at the expense of their communities, send out the notice which they have received from the treasurer. To those communities not represented at the court the treasurer himself shall send written word and the communities shall then in their accustomed places cause public notice to be given that all persons having cause of complaint or petition against the said official may appear before the Lord Rector at the proper time and receive full justice.

If any one of the said officials shall not have given said notification to the treasurer as prescribed above, he shall be required at the close of his term to send out the notice through letters of the rector or his representative to the districts and communities under his administration now

closed. From the time of this notification and not earlier, after the close of his administration, the days of his accountability as above described shall begin to be reckoned, and in the meantime he shall remain personally at the court [of the rector] and give answer to complainants according to law.

We decree also that each of the said officials who are to give such account of themselves shall be required to give notice to the rector or his auditor in spiritual matters, at least one day in advance, of the beginning of the period of accountability [*syndicatus*], with the title of the office he has held, his name and surname. The rector, or his auditor or judge shall on the first day of the period or earlier, give order by a public notice posted on the door of the audience chamber or inside the same, that each and every person who shall have knowledge of any fraud, bribery or illegal extortion or profit-taking committed by the said official while in office, or any rumor of the same, shall be required to give notice thereof to the rector or to his representative at this accounting.

The rector, if he presides in person at the accounting, or his representative, is required to make diligent inquiry as to all matters, whether reported to him or not, of all persons who may reasonably be supposed to have knowledge of them, especially of all advocates or procurators at the time resident at the court. He shall examine these separately under oath and preserve their declarations secretly. If any of the said advocates or procurators thus interrogated shall have concealed or knowingly borne false witness, as to facts known to him, besides the penalty of perjury and perpetual infamy, he shall incur sentence of excommunication *ipso facto*. If any of the aforesaid, making report to the rector or his deputies of offences committed by the official under investigation,

shall himself prove to have been the one who corrupted the official, the latter need fear no punishment, but shall be fully absolved from the reported accusation.

The syndics, in the first half of the period of examination, shall inquire into all matters brought before them and shall receive complaints from all desiring to be heard against the officials under examination, as to each and every act of their administration, especially as to illegal extortion or illicit gains. In these matters the rector and his syndics may proceed summarily without delay and *de facto* and with no publicity [*strepitu*], sitting even on holidays sacred to God or the saints, or in any other way, and without regard to legal formalities.

Both syndics and complainants are so to conduct themselves as completely to dispose of all suits, inquiries or complaints, within the period of accountability by a final sentence of acquittal or of condemnation, as justice may require. If within this period a sentence one way or the other shall not have been reached, the accused officials shall be released from all inquiry or complaint as to which no final judgment was passed; and the syndics shall be responsible to the Camera and also to the injured party, for the cases in which they have failed to find judgment, to the same extent as the accused officials were bound and furthermore they shall be punished by a fine of 100 gold florins for each case.

If officials subject to examination shall absent themselves or leave the court during the examination period or shall not present themselves to render their accounts, it shall be lawful for anyone to seize the fugitives and bring them back to the court. In that case the oath of a complainant shall suffice as proof of the accusation. If the fugitive be not captured and brought back, he shall be held to have confessed and shall be condemned as guilty

on all the charges made against him. Furthermore, the portrait of such an official shall be made at the cost of the Camera and kept in the palace of the rector or in the audience chamber of the court in token of his perpetual infamy.

If, however, no complaint be made against the official during the first half of the period and no inquiry begun, then at the end of this half period the syndics may, whenever they see fit, declare a release and the official shall be at liberty to leave the court.

Concerning the Parliament and the Army[1]

All bishops, prelates, clergymen and monks, cities, corporations and places, podestàs, rectors and nobles, upon the written summons of a rector or treasurer or his vicar, shall be required to attend a Parliament as often as may be ordered and according to prescription.

Corporations and cities shall be represented by their own delegates and not by any other community or person or by the representative of another community. No person shall disturb the Parliament by word or deed, and we reserve to the judgment of the rector or his special justice to declare such disturbance and to dispose of it.

We decree that each corporation, commune, noble and every other person shall appear mounted or on foot as shall be ordered by the rector or his judge or vicar in person or on their written order, under penalty of punishment at the discretion of the same. Upon this point the rector or his judge shall take counsel with the treasurer, the judges and the fiscal advocate and, taking into careful consideration the nature of the disobedience or the disturbance, the rank of the offenders, the occasion

1. II, 23, p. 100.

and other circumstances, shall proceed with their decision as the case requires; and this we lay upon their conscience.

Our Lord Pope Boniface VIII of blessed memory decreed that if at any time, the host shall be summoned by the rector and, as often happens, an agreement shall be made by a community with the rector to furnish a certain sum for the payment of footmen or horsemen, such sum shall be due only if the expedition really takes place, but if not it shall on no account be collected, and if any part of it shall have been paid over, it shall be returned to the donor without controversy.

We also, by the terms of this present decree, absolve all rectors from all statutes or ordinances which might prevent them from being free to compel and impose and exact penalties from those who refuse to join the host upon command of the rector. All such statutes and ordinances are hereby cancelled and declared to be null and void, any rights in the premises to the contrary notwithstanding; for such rights are always to be understood saving the authority of the over-lord.

We order further that, whenever upon command of the rector or church officials having power in the premises a certain number of men is assigned to a certain community, that community shall send that number of foot-soldiers according to the terms of the order from all the men of the city itself, dividing the burden in turn among all those of the city or commune according to a fixed number of days, until all are called upon if the campaign lasts so long. And when the round of men is completed according to agreement and following a fixed system of distribution, it shall begin again from the beginning, if necessary, and go on in succession as before. And if in either the first or second round the campaign shall end before the circuit is completed, then when the next levy

is imposed, it shall begin with those who were omitted in the former levy so that there shall be an equalizing of the burden in this matter. If, however, the community prefers to raise the quota assigned to it by hiring rather than by taking turns, it may so do, provided that the pay shall not exceed two anconites *per diem* for each man. And if men can not be found for that rate of pay the citizens are to take their turns in serving, equalizing the burden as best they can, since it is a personal obligation. The amount is to be collected *per capita* or by households and not *per libram*.

Of Safe-Conduct for Those Going to the General Court of a Province [1]

Renewing a decree of Lord Bertrand, Reformator, in regard to the security of the persons and property of those who are summoned to the General Court together with a certain addition to the same, we decree:

That whoever is summoned by the Rector or his judges or any other official of the Supreme Court or who without summons desires to go to the place where the court is being held for the time being, or who desires in good faith to bring to the said court grain or wares or merchandise or anything else for sale, shall have safe-conduct for his person and his property, coming, staying and returning, notwithstanding any rights of reprisal which may have been, or in future may be granted to any corporations or individuals. And we declare such rights of reprisal do not apply to advocates or to persons resorting for the above purposes to the place where the Supreme Court resides — even though such cases were expressly included in the grants of reprisal.

1. II, 24, p. 102.

But if, contrary to the present decree, anyone in the process of reprisal shall inflict damage upon the persons or property of said advocates or persons coming to the court, or staying there or returning he shall be duly punished and furthermore he shall *ipso facto* forfeit the debts, on account of which the reprisals were granted or in future may be granted, nor shall he ever be allowed to make suit to recover the debts which we declare to be thus forfeited.

Of the Penalties for Accepting anyone as Emperor, King, or Podestà in the Territories of the Church [1]

It is universally acknowledged that it is ordained in the unsearchable counsels of the divine government, that the Most Holy Roman Church shall not be without temporal possessions for the care and furtherance of the faith and of the faithful, but that it should profit by increase of the same in addition to its spiritual rights. Not without miraculous confirmation has it come to pass that, through temporal princes of distinguished piety and inspired by the divine favor, the Roman Pontiffs have not only been accepted as sole sovereigns in both kinds in the city of Rome, but the absolute sovereignty of the Roman Church and of the Roman Pontiff has been established in many other provinces and lands in Italy and especially in the Patrimony of St. Peter in Tuscany, the towns of Reati, Narni, Interamna, the communes of the Sabine province, of Campania, the Maritime province, the Duchy of Spoleto, the province of the March of Ancona with Maxa Trabaria, the city and commune of Urbino and the territory of St. Agapte and the province of Romandiola.

1. IV, 17, p. 158.

Wherefore, desiring to preserve this sovereignty undiminished forever, and that it may remain unshaken by tide and storm, or by the beating of tempestuous winds, we ordain by this decree, which by the divine favor shall stand for all time:

That in the said provinces or lands of the Church, or in any one of them, at any time, no emperor, king, prince, marquis, duke, count or baron, and no brother, son or descendant [*nepos*] of them or of any one of them, nor any other noble or grandee [*notabilis*], nor any government or corporation of a city or stronghold or town, directly or through another person, shall in any manner whatsoever be named or elected or accepted as rector, podestà, captain, protector, conservator, warden or magistrate, by whatever name or title or lordship, or, if elected or accepted, shall be retained in office without a special permit of the Holy See conveyed by letters of the Holy See making this grant in express terms.

If this command be violated, we ordain that such nomination, election or acceptance shall be void and not only the proposers, electors and acceptors but also those nominated, elected or accepted, if they have consented to such nomination or election, or if in any way whatsoever they shall have furnished aid, counsel or favor to the electors or acceptors, or to those elected or accepted, publicly or privately, no matter of what preëminence, rank, or station, even Priors and Councillors who shall have consented to the above-mentioned acts or if present shall not have opposed them and resisted them to their utmost ability — shall incur the penalty of excommunication *ipso facto*.

And in addition to that penalty we deprive those who violate the above rules or any of them, forever of all fiefs, privileges, liberties, and immunities, favors and honors

which they hold of this or other churches, so that those to whom the granting or disposing of these belong may have full power to take them back, to hold them or to convey them to others or dispose of them as far as they have the right to do. The remaining property of such violators we confiscate to the treasury of the Roman Church. Offending corporations shall be punished by a fine of 2000 gold florins and individuals by a fine of 300 gold florins.

Rules, regulations, orders and statutes put forth by persons thus named we declare to be null and void. Judges and notaries who shall have presumed to publish documents contrary to this present decree, we order to be deprived of their judgeships or notariates notwithstanding any decrees, ordinances or customs contrary to the above regulations.

Penalties for Seizing any Lands of the Church or Holding them after Seizure, or Usurping Jurisdiction or Carrying on an Election there Contrary to Law [1]

The due exercise of our office moves us to give especial attention to the legal remedies and safeguards of our subjects and to the rights of jurisdiction of the Roman Church.

Wherefore we decree that no person of whatsoever rank or station, shall presume to seize upon any city, stronghold or land of the Church by violence, treachery, robbery or in any other way against the will of the inhabitants or to hold them or to give aid, counsel or favor to any one thus seizing or holding them, or to expel [from them] any party or any individuals.

Nor shall he dare to assume in any of such places any lordship, jurisdiction, supremacy or tyranny or lend his

1. IV, 18, p. 160.

aid, counsel or favor to the doing of any such thing; but those who hold such occupied lands or places shall be bound to restore them and, within the space of one month, to hand them over to the rector of the province for the benefit of the Church.

If any contrary attempt be made we decree that the offender shall be punished as guilty of treason and as a public enemy, and that he shall *ipso facto* incur the penalty fixed by law for these crimes. Moreover they and their descendants forever shall be excluded from all offices and fiefs within the territories of the Church; they shall be infamous (*intestabiles*) and all suits and public acts done by them, contracts made with them or by them or to their benefit are declared null *ipso jure;* they shall be deprived of all privileges, fiefs and grants which they may have received from the Roman Church and they shall incur *ipso facto* the penalties, all and several, contained in the papal constitution: *dierum crescente malicia.* We decree also that communities or towns (*terrae*) which hold such occupied places shall be liable *ipso facto* to the same penalties.

Furthermore, by these presents we enjoin upon all and several cities, communes, individuals and spiritual persons, by the obligation of loyalty by which they are bound to the Roman Church, that no one of them shall presume to receive any city, stronghold or town under his (or its) protection, care or patronage, whether by "commendation" or in any other way, upon whatsoever pretext this may be requested, or under its jurisdiction, or make any alliance or agreement with them, except by a special permit from the rector of the province.

Desiring to uphold the jurisdiction of the Holy Roman

Church we order that no podestà, captain, vicar, judge or any other official of any city, commune, stronghold, corporation, or town shall have the right to bring suit, to hear cases, or pass sentence of death or mutilation or any other punishment for an alleged crime for which the said city, commune, etc. is not authorized to proceed, or in any way, by any device or upon any pretext to usurp the jurisdiction of the Roman Church or cause it to be usurped.

Furthermore, if any town or commune which has not the right so to do, shall, of itself or through another, have elected a podestà, or rector or captain, judge, vicar, notary or any other official, by whatsoever name he may be called, or if, having the right of election, it shall have chosen a person excluded from the election by our decree or by the rector of the province, we hereby annul and cancel such election, nomination or assumption and declare it annulled and cancelled. The offending community shall be punished by a fine of 300 gold florins, and those elected to such offices, if they have entered upon them, shall be subject to a penalty of 100 gold florins and shall give up their offices, and suits brought by them shall *ipso jure* be null and void.

Concerning Rebels and Enemies of the Church and Those who give them Counsel, Aid or Favor [1]

We have learned that Lord Bertrand of happy memory, Bishop of Sabina, when he was exercising the office of Reformator in the above-mentioned territories of the Church, in order to remove all opportunity for rebels to rage against our holy Mother Church and to persist in

1. IV, 19, p. 163.

their obstinate malice, issued a decree, that whenever any commune or corporation of a city, a stronghold or a town (*terra*) should rebel against the Church or its officials and on this account the Church or its officials should decide to proceed by force of arms or otherwise against a community thus persisting in a spirit of rebellion, no other community or individual should furnish aid, protection or favor to such rebels, publicly or privately, directly or indirectly. And he declared that a violator of this decree, if it were a community, should be subject to an interdict and pay a fine of 2000 gold florins and should be deprived of the right of choosing its podestà and forfeit *ipso facto* all the privileges, immunities and liberties which it had received from the Roman Church or from other churches. If, however, it were an individual he ordered that he should *ipso facto* incur the penalty of excommunication and of infamy, together with a fine of 1000 gold florins and the loss of the privileges, immunities and liberties which he had received from the aforesaid churches.

Wherefore, believing this decree to be a useful one, we order it to be observed inviolate and we extend it to those who furnish aid, protection or favor to counts, barons, or nobles or any other persons whomsoever in rebellion, and also to those who in those rebellious communes, corporations or territories shall have assumed or retained office as podestà, captain, warden, notary or any other functionary or who shall have granted or permitted to be granted to such rebels or to any one of them any office of this sort. And we order that they shall be subject to the afore-mentioned penalties and be deprived of the salary promised or fixed or customary in such office — said salary to be converted to the treasury of the Roman Church. Their election and assumption of office shall be

void, and whatever they may do in virtue of the office shall *ipso jure* be without effect.

And, lest the malicious calumny and evil cunning of some of our subjects may devise some argument as to the precise meaning of the words "rebels" and "enemies of the Church" and "those who give them aid, counsel or favor" *we declare* that those shall be held to be rebels and enemies of the Church (1) who shall be condemned or publicly proclaimed as such by the Church or its officials; also (2) those against whom the Church or its officials shall have declared war or caused armed forces to be raised; (3) those who have attacked the Church or its officials or its lands or given aid or favor to those so doing. "Promoters or conspirators or favorers of rebels or enemies of the Church or its officials," we declare to be those who furnish to rebels or enemies any armed force, horse or foot, or any men for war or defence or guard, or who shall form any military alliance with rebels, or who shall accept any office from them, or shall hold or exercise such office if accepted or proclaimed even before the rebellion, or who shall confer any office upon the rebels or, if granted or entered upon, even before the rebellion, shall retain them, or shall send *podestàs*, or who furnish or cause to be furnished to rebels arms, provisions or fodder, or who grant them safe-conduct or free passage across their territory, or who send letters or messengers to them without a special permit from the rector of the province or his officials or from the military commander of the Church, or who receive letters or embassies from them (which they ought without delay to hand over to the rector or the captain) or who hold any communication with the rebels or otherwise associate with them or serve them in any way whatsoever, for pay or without pay, or by word or deed give them aid, counsel or favor.

As to who may come under these prescriptions: we leave that to be interpreted and proclaimed by the rector of the province and his judges.

Furthermore, since there are likely to be great differences in the kind and degree, the method, the circumstances and personal standing of rebels and enemies and of those who aid, counsel and favor them, and since the penalty ought to be measured by the extent of the crime we order that the rector of the province or his criminal judge shall be authorized to increase or change or diminish the aforesaid penalties and to impose additional ones as may seem best upon due consideration of the nature of the offence and of the persons or corporations concerned, their persistence in wrong doing and other circumstances.

And, since rebellion or the promoting thereof should not bring immunity for other offences, but rather increase of punishment, we decree that the pecuniary fines for all other offences shall be doubled so long as the rebellion continues and until the offender is effectually brought back to the control of the Church. Other penalties may be increased at the discretion of the judges, and those imposed by papal legislation shall remain in full force.

Prohibition of Reprisals [1]

Since many scandals have resulted from the granting of rights of reprisal and since no person may lawfully declare such against another, we order that no city, town or district, baron, count, or any other person shall presume or attempt to grant rights of reprisal against men or places or property within the same province or against any others whomsoever, nor shall anyone make use of reprisals without a special permit from the rector. But let everyone seek justice in the court.

1. IV, 21, p. 167.

Penalties for Forming Confederations, Leagues or Assemblies [1]

Seeing that assemblies, confederations and leagues made aforetime without permission of the Apostolic See and the rector of the province have been the cause of serious disturbances and have been provocative of wars and are likely to be so in the future, we cancel and dissolve every association, league, agreement, confederation, brotherhood, captaincy, rectorate, oath, promise, obligation, or pledge, under whatever name or pretext it may have been made or in future shall be made between cities or communes, or lesser units, or of one district or person with another, or by mutual agreement between cities or districts or communes and individuals.

And we order that henceforth no city, commune or individual shall presume to take part in any association, league, obligation, confederacy or agreement or pledge or anything of the kind or any unlawful assembly, or to elect or establish any captain or rector or governor or councillor or by whatever other name they may be called, or to have or hold the obligations of any association or league or agreement or membership in any captaincy or rectorate or military expedition or having anything whatsoever to do with any of these things, or to accept any election or appointment of the sort or consent to it or exercise any such office.

And let no judge, notary or any other person presume, directly or indirectly, under penalty of losing his notarial office, to write, publish or dictate any instrument or writing concerning the aforesaid matters.

1. IV, 22, p. 168.

Prohibiting Election of Officials in their Own Community [1]

A law of Bertrand, Bishop of Embrun and Reformator, etc.

By the same authority we decree that, since it is an act of sacrilege for any one to hold public office in his own country, no person of whatsoever rank or station shall accept, hold or exercise office in the city, or district from which he takes his origin or where he has his domicile, or within whose territory he resides. Nor shall he presume to accept the office of podestà, captain, standard-bearer, gonfaloniere, conservator, defender, protector or by whatever other name he may be called, by which he may claim for himself any superiority of power or of rank above his fellow-citizens, whether of the city itself or its district. And no city or other corporate body shall accept or elect any [such] person to such an office or if accepted shall retain him longer than one month from the time of his presentation in public.

But if, contrary to this decree, any person shall in future receive any one of the aforementioned offices or any similar one, or having received it shall not vacate it within one month, reckoned continuously from the day of his acceptance, in addition to the penalty of excommunication he shall *ipso facto* forfeit all his property to the Holy Roman Church and shall be excluded from all legal acts, honors and offices. Cities or other corporations which elect or accept such persons to the above or similar offices or if accepted retain them beyond one month, besides the penalty of the Interdict which they incur *ipso facto*, shall be subject *ipso facto* to a fine of 1000 gold florins for the bene-

1. IV, 23, p. 169.

fit of the Roman Church together with loss of their right to elect *podestàs* and of all privileges and immunities received from the Roman or other churches.

Penalties for Holding more than one Office [1]

We decree and ordain that no community shall elect or accept any one as podestà or rector or deputy of the Camera for the protection of the country or for any other function to hold office for more than six months nor shall any one presume to hold these or similar offices for any longer term. At the end of the six months, neither the person previously chosen nor any one from his town, or from his family to the third degree, shall presume to perform the duties of the same or any similar office in the same community or district either in person or through agents during the following term or within two years.

Furthermore, we will and ordain that no person, of whatsoever rank or station, shall hold two or more *podestates*, rectorships or other similar offices at the same time in different cities, strongholds or districts of the Church unless he receive dispensation from us or from the rector of the province for reasonable cause as regards the said prolongation or assumption of office.

But if, contrary to this present decree, any attempt be made, directly or indirectly, for an election or reception or prolongation, such election, creation, prolongation of a podestate or any other office, reception or extension of powers of this sort shall be without validity, all measures passed by the holders or in their names, and suits brought by them and all other acts performed by them in person or by their authority or order shall be null and void like

1. IV, 24, p. 170.

the rash undertakings of an illegal podestà or judge or official, and shall be of no effect.

Communities offending against this decree, in addition to the sentence of interdict under which they fall *ipso facto*, shall forever be deprived of the right to elect their podestà or rector. But, if they shall grant commissions or accept again podestàs, rectors or other officials in the aforesaid territories or others, they shall be held to be unworthy and incapable of all lawful acts and for such offense shall forfeit forever all the privileges, immunities, liberties, estates and honors which they have received from the Roman or from other churches.

Penalty for using the words Guelph or Ghibelline by way of Insult [1]

Whereas party divisions in the provinces and territories aforesaid have been the cause of death and loss of property and the source of great danger to soul and body:

Therefore we, in our unremitting solicitude for the peace and safety of these provinces, decree and ordain that henceforth no person of whatever rank or station shall presume to use the name Guelph or Ghibelline or any other party name as a term of reproach or to invent other names which may tend to the formation of parties, under penalty of 15 gold florins.

And no one shall shout "Long Live" any association or any person, save only "Long Live the Church — or its officials!" The offender, besides the penalty for rioting or other crimes shall be fined 100 gold florins, whether during the same riot he shall have shouted once or many times.

1. IV, 45, p. 187.

Penalty for Neglect of Roads and Bridges [1]

Whereas, on account of the wretched state of warfare prevailing in the aforesaid provinces, bridges, fountains, roads and public highways have been abandoned or destroyed and have so remained to the great danger and injury of the inhabitants:

Therefore, for the common good of the inhabitants we ordain that within the next two months each city, commune, stronghold, town or corporation, and each baron, count or noble shall make diligent effort to reconstruct or repair all bridges, fountains, roads or highways intended for public use, where these have been broken down or discontinued and where none have been to build new ones throughout their territories, so that men and animals and vehicles can freely come and go.

Offenders against this decree, whether cities or other corporations or individuals, shall be punished at the discretion of the Rector and judges of the province after careful examination of the condition of the place and persons and the nature of the business and they shall be held responsible for full damages thereby caused.

That no Jew shall Serve as Attorney [2]

We decree that no Jew be admitted as syndic or attorney or defender for another person in any case, civil or criminal, but that he be absolutely refused even if he represent another Jew in any way related to him or associated with him — and whatever action in court may be taken by one Jew in the name of another shall be null and void *ipso jure*. A Christian who appears in court as attorney for a Jew or a usurer shall be required to swear by his

1. IV, 50, p. 190. 2. V, 7, p. 201.

soul that he is acting without malice or calumny and furthermore, to answer questions, notwithstanding that the principal may desire to answer or may already have answered.

That no Clergyman shall Serve as Attorney [1]

No city, commune, count, baron or other person shall appoint a clergyman as syndic or attorney, nor shall a clergyman be permitted to serve as defender or attorney, except in cases permitted by statute. If action be taken contrary to this decree, we declare it to be henceforth of no effect.

1. V, 15, p. 206.

VI

BARTOLUS ON GUELPHS AND GHIBELLINES

VI

BARTOLUS ON GUELPHS AND GHIBELLINES

Introduction

EVERY student of the Italian Middle Ages must, at one time or another, have found himself puzzled by the use of the words Guelph and Ghibelline by modern writers. If he seeks for definitions he is likely to find his perplexity rather increased than diminished. He will be told by one "authority" that a Guelph is an Italian devoted to the cause of the Church, and a Ghibelline is one who upholds the cause of the Empire. Another will tell him that the Guelphs are the inhabitants of the great industrial and trading communities, while the Ghibellines represent the agricultural, feudal elements of the population, generally under the lead of the older aristocratic fighting families surviving from the great days of German imperial control in Italy. A third will describe these names as standing merely for local party antagonisms without reference to larger questions of any sort. A fourth may go so far as to say that the words have not, and never did have, any definable meaning, but were always mere political catchwords. They might serve as expressions of family pride on the one hand or of abuse and contempt on the other, but as for any precise definition of the oppositions they are supposed to represent, that would be impossible.[1]

If the student, in despair of finding an answer to his inquiry by way of authority, tries to reach a solution by fol-

1. See p. 199.

lowing out any one of these lines of suggestion in his own study of Italian affairs, his confusion will only be increased. At one moment the historic antagonism of Empire and Church seems to be the sufficient explanation of the conflicting terms. He sees the militant Papacy allying itself with every Italian movement that seems to oppose the age-long struggle of the kings in Germany to treat the Peninsula as an appanage of Teutonic power and to justify themselves by a continuous appeal to their "imperial" rights. From the time of Frederic Barbarossa down, whenever this great universal issue is uppermost, the names Guelph and Ghibelline are used to designate the conflicting parties.

So far it is plain sailing; but here begin the complications. New loyalties come to take the place of those larger and simpler attachments. The political development of Italy for eight hundred years was to take place, not about any one or any two centres of influence, but around as many units of social life as could possibly maintain themselves. Neither Empire nor Church could ever succeed in gaining permanent hold upon the allegiance of the Italian people. They could not even succeed in dividing either the land or the people between them. Every Italian was in theory the subject of both. In practice he was subject to neither. Only in those lands where the Church (*la Chiesa*) was temporal as well as spiritual sovereign was there so much as a pretence of political loyalty; and even there the hold of Rome was maintained only by concessions and accommodations which served to advertise her weakness.

Or, if the student starts upon his inquiry from the definition of Guelph and Ghibelline as representing an antagonism of social classes, so that Guelph would always mean a man or a family devoted to trade or manufacture or banking, while Ghibelline would indicate an individual or

a clan belonging to the titled nobility and supported by the income from land, he encounters equally perplexing phenomena. He finds merchants or bankers founding and perpetuating families which even the most casual reader can recognize as among the most distinguished in Italian history. And on the other hand he finds the proudest titles of the ancient landed nobility becoming engrafted on the stocks of merchants, manufacturers and financiers.

So the question must arise in his mind: did a person or a family thus changing its social status change also its party affiliation? Did a town-bred Guelph become a Ghibelline by acquiring a landed estate and receiving the title that went with it? And did a territorial baron, originally a Ghibelline, become a Guelph if he entered into the business ventures and the social compacts of a city? Or, further, in case of such a social transmigration, was the relation of the individual or family to the greater ideal and universal powers changed also? Did the urbanized Ghibelline lose his supposed dependence upon the Empire, or did the city Guelph, transplanted to the open country, become any less loyal to the dominant Church?

The test of these larger loyalties came whenever the primary antagonism represented by the party names came to the front in the turmoil of Italian politics. The occasion was likely to be one of those periodical incursions of a would-be emperor into the ordinary course of affairs in the Peninsula. He came, usually, on the "invitation" of some group of Italian powers which expected to make sufficient capital out of his presence in the country to counterbalance the heavy burden of entertaining him and his hungry company. On such an occasion the ancient Ghibelline war-cry was sure to be heard again as the rallying note of the imperial support. All the elements of discontent flocked to the Ghibelline standard, and for weeks

or months the record of Italian history centres around the imperial activities.

But then, of course, the challenge of the Ghibelline bugles was answered by all that was Guelph, and the rallying point of this opposition was offered by the sleepless vigilance of the Roman papal policy. If the emperor was received with jubilation by the barons of Lombardy or by one city of Tuscany, other cities closed their gates against him, and other territories refused to furnish him with supplies. In every case the manner of his reception was determined in advance by the preponderance of the Guelph or the Ghibelline influence in the given region. The goal of such an expedition was generally the coronation of the emperor at Rome by the pope or his representative, and as the price of help in this ambition the Guelph partisans everywhere demanded all the advantages of privilege and immunity that could be wrung from the poverty or the political necessities of the candidate. So that our thought of these words as expressing primarily a social or economic demarcation is shown to be quite inadequate. When the old battle-cries of "Empire!" and "Papacy!" ring out once more, the ancient line-up of parties takes place almost automatically under the familiar names.

So far we have been considering these names as applied to individuals or families, or, at most, to temporary groupings for some immediate purpose. But this does not exhaust the list of complications in the way of satisfactory definitions. We discover that there are not only Guelph and Ghibelline families and individuals, but also whole communities which, generation after generation, bear these distinctive names. For example, Pisa, the proud merchant city of the western coast, is regularly described as a Ghibelline city. Its interests were primarily commercial. Its dominant families were not noticeably more

closely connected with feudal-imperial traditions than were those of other Tuscan communities. And yet, time out of mind, Pisa was one of the places upon which a visiting emperor could most surely count for a friendly reception and substantial support.

On the other hand Florence, long the dominant power in Tuscany, was with equal persistency regularly Guelph. When emperors knocked at her doors, she opened them or not according to the terms she could exact. As a rule she supported the cause of the Papacy, but this did not mean a servile allegiance. When, as in the last days of the papal "exile," the policy of Rome seemed to interfere with Tuscan liberty, Florence, in spite of ban and interdict, did not hesitate to carry war into the lands of the *Chiesa* and bring the tottering Papacy to terms. In the case of these two leading Tuscan towns it is more than probable that the attitude of each toward the great Italian problem was largely determined by that of its commercial and political rival. Whatever was good for Florence was bad for Pisa, and *vice versa*. If Florence was Guelph, Pisa must be Ghibelline, in order to preserve its independence and prevent its commerce from becoming an instrument of Florentine domination.

Thus we see that considerations of widely differing sorts might determine the question of party allegiance. If we think in terms of nationality, then "Guelph" appears as the party of Italian nationalism as opposed to all foreign domination. If we approach the subject from the side of the Church, then "Guelph" means the party of the Papacy as against all other interests. If we begin with social distinctions, then it means the great middle class making its way to wealth and consequently to power by force of native ability. And, of course, "Ghibelline" connotes the opposite of all these.

It would seem, then, that the lines of party loyalty must have been constantly shifting according as these various issues came to the front in the great wrestling match of Italian politics. There must have been a continual temptation to shift one's party attachment for purposes of political ambition or economic gain, or even — to be quite fair — from honorable motives of real political or religious conviction. Such a shifting of allegiance was obviously unwelcome to party managers. From their point of view it was desirable to know where every man stood, to mark him with the party label, so that in the perpetual changing of public officials they, the managers, could know upon whom to depend. The result was the formation of party associations as completely organized as the mechanism of government itself.

The type of all such organizations is the famous *Parte Guelfa* of Florence. Entirely unconstitutional, or at least extra-constitutional, this purely partisan club, with its well-recognized leaders, its councils, and its executive officers, was a state within the state. It held its members by a tie which often proved stronger than their attachment to the regular constitutional government. It was not a revolutionary body; it did not attempt to change the existing forms of public order or the regular processes of public business. It simply saw to it that all this regular mechanism was directed toward those ends which the Florentine public believed to be for its best interests, and which were best summed up in the one word "Guelph." Whoever opposed the working of this formidable machine was by that very fact a "Ghibelline." He might be as ardent a patriot as anyone. He might be as much opposed to imperial interference in Italian affairs as the *Parte* itself. He and his forbears might never have stepped off the Florentine pavement. If he could not or would not work

with the Guelph machine, he was sure to be accused of Ghibellinism, and ran the risk of being driven out of the city and forfeiting both his property and his rights of citizenship.

The most familiar and the most dramatic illustration of this principle is seen in the complications occurring in Florence around the year 1300, with which the name and fortunes of the poet Dante are inseparably connected. At that time the government of the city was safely Guelph. All avowed Ghibellines had been banished; but party spirit could not be kept down. The all-powerful Guelphs, freed from the stimulus of Ghibelline opposition, split into two factions along essentially the same lines of cleavage which had divided the two historic parties, that is, between the upper and the lower classes of the triumphant democracy. The Blacks were what we might call the "stand-pat" Guelphs; the Whites were the "Progressives" of the same party; and the hatreds engendered by this new division were of an intensity which we Americans have learned only too well to understand. In good Italian fashion the Blacks turned out the Whites, Dante among them, and thus drove them into the arms of the Ghibelline exiles and their partisans throughout Italy. The commonest and the bitterest word of reproach flung by a Black Guelph into the face of a White Guelph was the word "Ghibelline!"

The analogies between this Italian party system and our own are too obvious to need more than a passing mention. The *Parte Guelfa* has its most perfect counterpart in our Tammany Hall, as wonderfully managed a piece of political machinery as the world has ever seen. Like its Florentine prototype, Tammany owes its marvellous control over its adherents to its unofficial character. It offers them the multitude of intimate personal services

which the regular government of the city cannot give, but which they conceive to be the primary duty of all government. In return they furnish it with the working majorities by which its power is perpetuated. Both organizations illustrate the maxim that no government can rise very much above the standards of the people governed. Like the managers of the *Parte Guelfa*, those of Tammany Hall are wise enough not to stand too greatly in the way of the civic prosperity upon which their influence depends.

Similar organizations, Guelph or Ghibelline, as the case might be, existed in most Italian communities. In some there was a frequent shifting of the balance, so that now one and now the other party would be in the ascendant, while its opponent would be excluded from public office and its leaders driven into exile. In other places some kind of compromise was reached and a bi-partisan government was maintained, with a fixed proportion of the offices assigned to each party. Sometimes it was constitutionally provided that the two parties should be equally represented in the government, and in that case one is led to wonder what hidden springs of policy kept the latent forces of partisanship in check.

One thing, however, is clear: whatever the mechanism of party government, it was absolutely necessary to its successful operation that, so far as possible, the party status of every citizen should be known. In some cities, therefore, registers of the parties were kept, so that by a simple process of inspection each man's allegiance could be determined. In speaking of this practice Bartolus describes it as "odious and unfair" (*odiosum et contra aequitatem*), but he gives no reason for this opinion. My conjecture is that he felt this rigidity of the party lines to be contrary to that liberty of personal judgment upon which

the permanence of free institutions everywhere and always must ultimately rest.

Parties there must be in any community which is not enslaved by the control of some one man or family or group; but if these parties, either one or both of them, become such close corporations that there is no room for any shifting of membership between them, then before very long they will become instruments of tyranny rather than agents for liberty. Or, to take one step further, if the two parties, either openly or covertly, combine to shut out all "third party" movements, then all sound political progress becomes impossible. It is only by the wholesome discipline of continuous criticism that any party anywhere can be kept true to its highest ideals.

The analogies between the conditions of Italian party government in the fourteenth century and those of England and America during the last century and a half are so close as to be highly instructive for the student of republican institutions. The scale has been enormously expanded, but the issues at stake are curiously similar. In both countries the origins of the great party alignments go back, as did the origins of Guelph and Ghibelline, to questions profoundly affecting the national life as a whole. For England the vital problem since the middle of the eighteenth century has been whether to extend her control over great parts of the habitable globe, or to live her own life and make that life as complete and as fruitful of high example as possible. On that line her parties divided. Taken by and large, the names "Tory" and "Whig," or their more recent counterparts, "Conservative" and "Liberal," express the same antagonism as the Italian Ghibelline and Guelph, the former with its emphasis upon the imperialist tradition, the latter with its persistent "nationalist" programme. So in America, after

the first shock of the Revolution had made it clear that the late colonies were, for good and evil, launched upon the troubled sea of independent life, opinion began immediately to divide upon the question: to what extent they were to maintain their separate individualities and how far these were to be merged in a new corporate political unit. "Federalism" on the one hand, and on the other, various temporary designations, came to express the same antagonism of largeness and venturesomeness as against internal development and cautious security.

The same issue came to the front again in the controversies that led up to the Civil War. On the one side was the insistence upon local, traditionary rights, and on the other, the appeal to great general principles of universal application, the demand for one country with one law based upon one accepted theory of public morality. In the course of those preliminary struggles and through the awful arbitrament of a fratricidal war were developed the two great parties which ever since have divided the suffrages of American voters between them. The names "Democrat" and "Republican" have now, for more than half a century, expressed the same antagonism which in Italy was indicated by the original meanings of Guelph and Ghibelline, that is, the party of local autonomy and the party of "imperial" unity.

It is true that here, as there, the sharp edges of this distinction were obscured or rubbed away by the crowding in of temporary personal or class conflicts. The larger opposition has seemed often to be forgotten, but whenever it has emerged out of the ruck of political intrigue, selfish class-interest, and reformatory idealism then here, as there, the old party cries have gone forth and, in general, the old alignments have taken place anew.

Under the ordinary conditions of our national life the party names seem to lose their significance. The words themselves have no more distinctive meanings than their Italian prototypes. It is hardly an exaggeration to say that every Republican is a democrat and every Democrat is a republican; just as in Italy every Ghibelline was a devout subject of the papal religious system, and every Guelph acknowledged the theoretical overlordship of the emperor. Certainly few Democrats would like to see the country under the control of a true democracy; and no Republican would like to be charged with disloyalty to democratic principles — as he understands them. In short, so long as we confine ourselves to the great permanent historic attitudes for which the hereditary party labels stand, we Americans are as capable as any people can be of understanding the Italian partisan line-up of the fourteenth century. The names in ordinary usage mean little or nothing, but they carry in them a powerful reserve force which upon occasion may be summoned to renewed activity.

No less striking is the analogy between the party systems of fourteenth-century Italy and present-day America when we come to the more intimate local, economic, and social uses of the party names. Take, for example, the first of Bartolus's practical problems: is it lawful to have parties at all? In our Constitution there is no formal recognition of parties. In theory there is a government and there are citizens who accept it and obey its orders. They reserve the right to change it by orderly process; but, while it exists, their duty of obedience and its right to enforce obedience are clear. In practice, however, the most intimate and most vital of our political sentiments is our sense of party loyalty. Our two great parties have developed without legislation and without forethought

into vast national organizations, with branches in every corner and with mechanisms of portentous efficiency. All our constitutional agencies of government, the legislative, the judiciary, and the executive are affected by partisan considerations. It has gone so far that, when we say "political," we generally mean "partisan." We still think of our departments of government as responsible agents of the people's will, but we know in our hearts that they are inspired or hampered at every turn by this all-pervading party influence. As these words are written, our whole country is in the throes of preparation for one of those quadrennial electoral struggles in which the dominant issues of our political life are outlined before our people. The method is crude to the point of barbarity. The parties in their conventions, conducted with a primitive savagery that staggers the faith of the calm observer, exhaust ingenuity in fraudulent promises and shallow abuse of opponents. And yet, precisely through this graceless sifting out of the insignificant and the unworthy, that which is essential and enduring in the national life comes to its rights.

Our parties, then, like those of fourteenth-century Italy, have attained a semi-legal status. Our Constitution prescribes the method of electoral procedure, and our courts, those solemn relics of our ancestors' worth, stand ready to enforce it. Within the framework of this prescribed method the parties are free to act as the agents for determining the popular will. It might have been well for Italy if some similar periodical show-down had compelled the great parties to declare themselves on the leading problems of Italian nationality. In default of any such coordinating force there was developed in every Italian community an extreme intensity of party spirit, turning largely upon local issues, and expressing itself in those

frequent outbreaks of violence which lend to Italian history such a sinister picturesqueness.[1]

The commonest way of securing the control of a community by one party was to turn the other out, not only of the offices, but of the city itself. This process gave rise to many interesting problems. Was a person, normally a Guelph, but banished by a Guelph government, automatically converted into a Ghibelline? Would he be received into the Ghibelline party in another city hostile to his own *patria?* Or would he find hospitality among the Guelphs of some friendly city? How would his rights of property be affected by such exile? In case of his return, would his property rights be restored? Was a man once a Guelph always a Guelph? Could a man be a Guelph in one place or at one time and a Ghibelline at another place or time? To answer any of these questions, it was obviously necessary to know first whether the person was, or had been, a Guelph or a Ghibelline, and that raised the further question: how was his right to either name to be determined?

To some of these practical problems we have no analogies in our political life. The nearest approach may, perhaps, be found in recent laws compelling the use of party names in "primary" elections; but this device, adopted to prevent fraudulent registration, has not commended itself in practice. It is an interesting sign of the times, but

1. Interesting contributions to the history of these party names are found in the *Constitutiones Egidianae*, ed. Sella, iv, 45, and in a proclamation of Cardinal Albornoz to the inhabitants of Viterbo (Theiner, *Codex*, ii, p. 350). In both these documents the use of the words "Guelph" and "Ghibelline" as party cries is positively forbidden. In the former the penalty for violation is a heavy fine; in the latter it is confiscation of property and banishment from all territories of the Church. In the *Constitutiones* the phrase used is *nominare injuriose*, which I understand to mean "call out by way of insult." The object of the rule is obviously to check provocation to public disturbance.

so far it has seemed to violate the fundamental right of the American citizen to decide upon his vote at the last moment before casting his ballot. No such scruple restrained the Italian partisan. On the questions arising from the practice of banishment we have, of course, no direct analogies; and yet there are American communities where a Republican or a Democrat would find himself socially almost as much an outcast as if he had been driven out by a decree of law. His remedy is migration to more congenial surroundings, and a similar consolation was open to the Italian exile.

The story of the Italian republics is filled with accounts of banishments and returns. Exile from his "beloved commonwealth" was, on the face of it, the severest of punishments, but it came to be treated as a part of the exciting game of party warfare. The exile never ceased to love his *patria* and clung desperately to the hope of restoration. If this could not be accomplished by lawful means, the next thing was a resort to the method of conspiracy. The exiled Guelph sought help among his fellow partisans wherever he might be, and awaited the happy day when he should lead them in an attack upon his Ghibelline enemies at home and "turn the rascals out." It was the favorite Italian method of preserving that wholesome balance of parties which is essential to the successful operation of any party system. If it seems to us rather "Mexican" than either British or American, that should not blind us to the profound underlying truth that such passionate political activity is only one of the cruder forms under which liberty expresses itself. If we compare it with the political torpor of Prussianism or Austro-papalism, we shall be inclined to give it at least our sympathetic understanding.

One of the most interesting complications produced by foreign residence occurred when a citizen of one Italian

community was employed as an executive officer by another. The situation is likely to be very puzzling to an American observer. The development of our political institutions has produced an exaggerated and irrational devotion to the principle of local representation. Beginning at the top with the constitutional requirement that the President must be a native of the United States, we have carried that jealous exclusion of the "foreigner" down to the smallest unit of our governmental system. The very idea that an electoral district should be represented by a non-resident brings a distinct shock to our sense of political propriety. Even if this is not formally prohibited by law, an attempt to carry it out in practice is met by a repugnance so complete that the attempt is seldom made. The unfortunate result is, of course, that in a district or a state where one party is permanently in control the most brilliant talent of the other party is permanently excluded from the public service of the country.

Precisely the opposite sentiment governed the practice in republican Italy. The jealousy which we show toward foreign influence was there turned inward toward one's own fellow citizens. Nothing is more curious to us than the meticulous care with which every conceivable advantage of one citizen over another was anticipated and provided against by law. Short terms of office, strict accountability for malfeasance, prohibition of personal interest in public undertakings, jealousy of family connections — all these we can understand. But when we find all citizens positively excluded from the most important executive offices and positive requirements that these shall be filled by outsiders, we feel ourselves in a new and strange world of political moralities.

The most interesting effect of this prohibitory legislation was the creation of a class of professional executives, men who were invited by one or another city to serve as

its *podestà* or *capitano* and, having proved successful, were then in demand for similar service elsewhere. Notaries, whose commissions were always regarded as universal in character, passed also freely from one communal service to another. So that, during the whole republican period there was a large class of public servants changing their residence at frequent intervals. The nearest approach that we have so far made to this system is in the institution of the "city manager"; but this device, hailed as the ultimate solution of all our municipal troubles, has made no great progress. For one thing, it seems to be a confession of incapacity or civic turpitude that a community should thus openly proclaim that it cannot govern itself. It offends that ingrained American conviction that the government of a city is the natural training-school where the average citizen is shaped for the higher responsibilities of public life. It is the open declaration that municipal government is mainly an affair of "business," and this the American, with his curious latent reserve of idealism, is slow to acknowledge. It rests upon the notion that there is such a thing as an "expert" in government, and the American is not yet ready to accept that idea.

Now, what was the effect in Italy of these frequent changes of residence upon the party allegiance of the individual? It is evident that this question had been brought to the attention of Bartolus, probably by way of consultation in specific cases, and his analysis of it gives us curious glimpses into the inner life of the Italian parties. Suppose a citizen of a Guelph community to become an official of a Ghibelline city; did he thereby become a Ghibelline? Bartolus's answer is instructive. He says that, in so far as the great historic antagonism of Empire and Papacy was concerned, a man's party could not change. In that respect, "once a Guelph, always a Guelph." But

in respect to other loyalities it was perfectly clear that one might be of one party in one place and of the other in another place. In the case just supposed the official would be a Guelph in respect to his home town and a Ghibelline in respect to the place where he was temporarily employed. His personal convictions on the ancient or the recent causes of division would be his own affair.

Further still, it was possible for the same individual to be of both parties at once and in the same community. Of this Bartolus gives a very pretty illustration from his own observation at Perugia, which at the time was a recognized Guelph city. He found there, however, many good citizens who liked to be known as Ghibellines because of the social prestige attaching to that word. Harking back to the olden time when "Ghibelline" was almost synonymous with "noble," they liked to parade their "illustrious" descent; but, as regarded the present conditions of their *patria*, they were as good Guelphs as anybody. We should have no difficulty in understanding the words "Anti-slavery or Union Democrats," or "State Rights or Free Trade Republicans."

In determining the proof of party membership certain presumptions were to be admitted. First, a man was presumed to be of the same party as his father; for this was quite as much a family as an individual affair, and it requires little imagination for the American to understand this phase of the Italian situation. A second presumption was, that a man followed the politics of his community. But how was the party adhesion of a community to be determined? Bartolus gives it as his personal opinion, that the politics of a city were those of its rulers; but he feels certain difficulties in ascertaining what these were. Especially in the case of bipartisan governments the proof was likely to be unsatisfactory. If the number of magistrates of

one party was regularly greater than that of the other, then the place might be said to be of the party of the majority. If they were evenly balanced, as at Todi, then obviously the only test would be whether in its larger dealings the community was on the whole inclined to favor the policy of one party. Only in cases where officials, upon assuming office, are obliged to swear fealty to a certain party can the partisanship of the government be positively determined.

Finally, we have to remark that, for Bartolus here as elsewhere, the ultimate test of validity is the welfare of the community as a whole. The source of law is that mysterious *Populus* which he, in common with other mediaeval theorists, regarded as the successor of the ancient *Populus Romanus*. No "Superior" could lawfully interfere with the normal working of the legal process. Law was only the expression of the will of the people toward its own good. An ideal state would be one in which all citizens worked together for common ends; but the frailty of human nature has produced divisions among men, and parties are the organized expressions of such divisions. They are necessary evils, and it is the function of law to reduce the evil to its lowest terms. Parties are to be justified only as they work for the good of the community, and not for their own partisan ends.

The principle is the same as that applied by our author to the subject of tyranny. A tyrant is "the worst plague of human society"; but, if a tyrant serves the community well, it is better to bear with him than to take the risks of social disorder. In the last resort he is responsible to his fellow citizens, and so are the party organizations which claim their adhesion. Through all his verbiage and under all his formalities of diction, we discern in Bartolus the sincere champion of that noble ideal of his great predecessor, Thomas Aquinas, the Christian Commonwealth.

A TREATISE OF BARTOLUS CONCERNING GUELPHS AND GHIBELLINES[1]

AFTER I had written a literal exposition of those matters, and while my mind was occupied with that third section of the River Tiber,[2] I found myself at the hundredth mile-stone from Rome near the city of Todi,[3] and there I perceived that what I had written literally about the river and its bed might be said figuratively and in a moral sense of events that were frequently happening at Todi. For our whole life is a river, or the water of a river — as it is written [II Sam. xiv, 14]: "For we must all die and are as water spilt upon the ground." The bed over which this water runs is that upon which our affections are fixed, as it is written: "Where your treasure is, there will your heart be also."

Now, in that city of Todi I found two parties, one called the "Guelph" and the other the "Ghibelline." The custom was, that in every public function there should be an equal number from each party, but it sometimes happens that a member of one party changes his "bed" and begins to be of the other, and from this many questions have arisen, some of which we will now examine.

First, as to the original meaning of these words; second, as to their meaning at the present day; third, whether it is

1. The translation is based upon the two editions: Basel, 1588, and Venice, 1602.

2. The reference seems to be to the author's treatise *De Alveo*, which formed the third part of his discussion of the rights to property in land formed by the shifting of river courses. The first part has the title, *De Fluminibus seu Tyberiadis*, the second, *De Insula*.

3. Bartolus was Assessor at Todi soon after finishing his legal studies and before his temporary engagement as Professor at Pisa (1339).

lawful to have these parties; fourth, how membership in them can be proved, either from the point of view of the individual or of the community; fifth, how to prove that an individual has changed his party allegiance.

I

As to the first point: it must be remembered that in ancient times there was a violent conflict between the Roman Church and Frederic, called Barbarossa, at that time Emperor of the Romans, from whom we have certain laws made while he was still loyal to the Church, as may be seen in the feudal customs. Afterward the Church deposed him from his imperial sovereignty. There was in Germany a family related to that Frederic and called "Lords of Gebello." When the above mentioned discord took place a great part of the Italians stood by the deposed emperor, and these were called "Gebellini," that is, adherents of that Lord of Gebello. Others, however, were faithful to the Church and were called "Guelfi," that is, devotees of the Faith. These things we find prefigured in I Sam. 31 and II, 1 where a battle and a slaughter are said to have taken place in Mount Gebello [Gilboa], which is interpreted as "the place of bravery." So that Emperor Frederic, being under condemnation and trusting to the bravery of his House of Gebello, was opposed and put to flight by the Guelphs, that is, by the defenders of the Faith. For this name Guelph is found in the 30th chapter of Genesis and is interpreted "the speaking mouth," which agrees with the cause of the Church; for it was by the word of excommunication pronounced by the Supreme Pontiff that the emperor was put to flight. Strictly speaking, therefore, just as "Gebellus" is interpreted "place of bravery," so "Ghibellini" is interpreted "those who put their trust in bravery," that is, in soldiers and weapons.

And just as "Guelfa" is interpreted: "the speaking mouth," so those who put their trust in prayers and pious exercises are called "Guelphs." [1]

II

As to the present-day meanings of these words: it is evident from what has been said that they represent certain forms of human allegiance. Those who are loyal to the institutions of the Church against that enemy are called by one common name. But to-day, although the words persist, they are used to express other loyalties. We see many who are called Ghibellines becoming rebels

1. This pious nonsense seems altogether out of character for the sternly logical and matter-of-fact Bartolus. It is of interest as showing how little he was affected by the humanistic spirit of his time. This playing with words is eminently a mediæval pastime, becoming increasingly unpopular as the critical scholarship of the Renaissance revealed the true relations of words and laid the foundations for modern etymological science. The value of Bartolus's present discussion begins only with the second section. An interesting contribution to this discussion is made by Coluccio Salutati in a letter to Charles of Durazzo, king of Naples and Sicily [Ep. di C. Salutati II, 28]. The purpose of the letter is to instruct the king on his political relations with the peoples of Italy. Salutati gives various theories as to the origin of the historic parties without committing himself definitely to any one of them. He does not quote Bartolus directly, but mentions one derivation similar to that given by him. While his own theory of origins is of a rather nebulous character he leaves no doubt upon which side his sympathies lie. He rejects one story of miraculous proclamation of the two party names, but shows a certain weakness for the notion of celestial influences. "The traditions of the astrologers," he says, ascribe to Jove and to the Sun those favoring qualities which mark the Guelphs and to Saturn and Mars the militant and disturbing activities of the Ghibellines. Guelphs, therefore, are "sunny and jovial men, kind, gracious and venerable of aspect, fair to look upon, peaceful, gentle and pious. Ghibellines, on the other hand, are saturnine and martial, evil minded, malicious, prone to anger, haughty, cruel and turbulent." Hence the difficulty of keeping the peace, and hence the obligation of the king to side with the ever virtuous Guelphs and to defend the cause of Holy Church.

against the Empire;[1] but, as happens in provinces and cities where divisions and party groupings occur, it is necessary to call these parties by some names, and so the names Guelph and Ghibelline are given to them as being the most familiar. In some places other associations are formed as to which I am not at present concerned, and these become parties.

I say, then, that to-day he is a Guelph who belongs to the organization of the Guelph party, and he is a Ghibelline who belongs to the organization of the Ghibelline party. In this usage reference is ordinarily made neither to the Church nor to the Empire, but solely to those local party rivalries which exist within a city or a province. These distinctions of party sometimes arise between communities, although neither of them is in rebellion against its overlord, be it the Church, the Empire, a king or a people having the right of overlordship. The words are merely accidental accompaniments of a fact.

From this I draw three conclusions: (1) that if the words Guelph and Ghibelline are taken in their original sense, no person can be a Guelph in one place and a Ghibelline in another. The reason is this: Those [now] repudiated loyalties, whether to Church or to Empire, are universal and uniform in their application to the whole world, and therefore, to say that a person could hold one allegiance in one place and another in another place would be a contradiction of terms; just as a guardian cannot be the agent of two wards who are in litigation with each

1. Both the editions which I have used give "Guelphs" instead of "Ghibellines," which is obviously contrary to the sense. Mr. Woolf (p. 192, note 2) quotes a considerable enlargement of the passage: "Videmus enim quam plures, qui Guelphi vocantur, esse rebelles Ecclesiae et alios quamplures, qui Gebellini vocantur, esse rebelles Imperii." This desirable addition clears up all obscurity, but certainly the Basel edition of 1588, upon which Mr. Woolf bases his work, does not contain it.

other over a single point. (2) My second conclusion is, that if the words are used in the modern sense a man *may* be a Guelph in one place and a Ghibelline in another, because party attachments of this sort may refer to a variety of issues. Suppose that in one place there is a tyrant, who, together with his following, is called a Guelph. A good citizen will be opposed to this man as a tyrant, and in that place this citizen is a "Ghibelline," but, in another city not dependent upon the former, where there is a Ghibelline tyrant, certainly that same good citizen will be opposed to that tyrant and there he will be a "Guelph," — just as also a guardian may be an agent for each of two contending parties if the subjects of contention be different. (3) My third conclusion is that a person may be of one party in some respects and of the other in other respects. For example: In the city of Perugia there are many who wish to be called Ghibellines in the original sense, because these names have become traditional, and they regard it as a matter of pride that their ancestors were persons of such nobility as to be reputed to be of the Ghibelline party. But, in view of the present condition of the government of the city, they are "Guelph"; that is to say, they are Ghibelline as to their origin, but Guelph in regard to the present political conditions of the place. Nor does this involve any contradiction, because it implies two different aspects of loyalty. It is on this principle that we say, that no person can be both principal and trustee for the same property and in respect to the same matters, but he may be so in respect to different matters.

III

In regard to the third question: whether it is lawful to have these parties, I say that if a number of persons belong to a party (*si plures sunt unius affectionis*) or if a person

attaches himself to one party, not for the public good, but for their own advantage or in order that they may oppress others, that is absolutely unlawful. And, if several combine together to this end, this is punishable as if they had formed a conspiracy to the injury of an innocent person. If, however, there is one party in a city tending mainly to the common good in order that the place may be well and peaceably governed, and if it be impossible to hold the opposition in check without using a party name, then I think such a party organization is, generally speaking, lawful. Just as it is lawful for friends to associate themselves in a guardianship of property so, for a still stronger reason, it is lawful to do so in the guardianship of the public interests.

If, however, one party wishes not only to resist, but to depose those who have the government in their hands, then, if they should rise against this government, that would be absolutely unlawful. But, if the existing government be a wicked and tyrannical one, then, since this is a government by one party, it is lawful that there should be another party as an opposition: first, if they have appealed to the overlord and have found that he cannot depose the tyrant without great difficulty and second, because the opposition would be acting for the public good, to the end that the order of the community may be restored. If, however, they should take this action in order to drive out the ruling party and set up a new tyranny of their own, then the opposite is true.

The first proposition is proved, because it is lawful for men to execute justice on their own authority if no judge is at hand; and if this is lawful for the advantage of individuals, it is lawful for the deliverance of the Republic, for the defence of which everyone is responsible. Furthermore, if this is permitted against a destroyer of crops or a

deserter from the army, far more ought it to be allowable against those who would destroy the Republic and bring it into servitude to themselves. The second point is proved, because it is not lawful to act for one's own private advantage. Those who have possession of the Republic by way of tyranny have acquired their rule either from the Republic itself or from the overlord or from some private source. Therefore another person who should wish to depose the tyrant for his own advantage would seem to act unlawfully.

For the public good, then, this forming of a party would be permissible, and if it should come to an action, so that disorder should break out in the city, this would not come under the law of sedition, because it would be a permissible action. And here I cite Thomas Aquinas, where he says:[1] "A tyrannical government is an unlawful one (*non justum*) because it is not established for the public good, but for the personal advantage of the ruler." Therefore the destruction of this government has not the character of sedition unless, perchance, the overturn of the tyrant would bring such confusion that the subject people would suffer more therefrom than from the government of the tyrant.

And so I say that the use of these party names, although they denote division and party spirit, is nevertheless lawful, provided only that it is for a good and rightful purpose. For even the Apostle Paul, knowing that there was one party of the Sadducees and another of the Pharisees, cried out before the Council: "Ye men and brethren! I am a Pharisee and the son of a Pharisee" (Acts 23). And yet, I have seen at Perugia many persons in revolt against tyrants, and, though they were inspired by a holy and righteous purpose, still I do not think it is right for a

1. *De Regimine Principum.*

man of honor to use those party names unless for a very weighty reason, because they imply division and schism.

IV

On the fourth question: how to prove membership in one of these parties, I say that there are three points to be proved: (1) that the parties exist in the given city; (2) that a certain party is called by a certain name; (3) that the person belongs to a certain party bearing a certain name. From these it is to be concluded that he is a member of that party. Let us inquire into these.

(1) I have said that we must prove that the parties exist in the city. On this point it must be noted that sometimes there are two parties in a city, each of which has an equal share in the government, as is the case at Todi, and here the proof is easy. Sometimes there are two parties, one of which governs the city while the other, which formerly held the government, is out of power, and in that case too the distinction is easy between those who formerly ruled and those who are now ruling. Sometimes a city has been governed for a very long time under one party name, and then it is difficult to prove that any one belongs to the opposite party, — as I shall soon show.

(2) I have said that it must be proved that a certain party bears a certain name; and that is a difficult thing to do.

(3) I have said that it must be proved that a certain man belongs to that party. This can be proved in the city of Todi with the greatest ease; for there a man is called to public office under a certain party name and would not otherwise be accepted. So that his party status is clear, since that name could not be used by one of the other party. Also, his declaration of party allegiance is sufficient, since no one is supposed to say what he has not

carefully considered in his mind. Further, if he favored that party in the Councils or by other voluntary actions [this would be evidence].

But what if one party is outside the city and the ruling party declares war against them? Certainly those who join this expedition would not, on that account, be proved members of the ruling party, since they enlisted by order of the rulers whom they were bound to obey, and therefore it is doubtful whether they acted voluntarily or under compulsion. If then no proof of party allegiance can be reached in that way, it is enough if it can be proved of their ancestors; for a son is presumed to belong to his father's party.

I now return to what I said about a city which from ancient times has been governed under one party name and has no outsiders living under a party name, — or, if it has such does not have them under the name about which the inquiry is made. For example: The city of Pisa has been governed from ancient times by the Ghibelline party, and although it has citizens living abroad, both insiders and outsiders are called by that same name. To make this clear I will suppose that there is a statute at Pisa forbidding any Guelph to hold office there. I say that this is to be understood as referring to a person who is a Guelph within the city of Pisa and with reference to [the affairs of] that city. A doubtful statute must be interpreted with reference to the conditions in the territory of the enacting power. Therefore, since in that city there is no Guelph party, it is evident that no person can bear allegiance to something which does not exist. Wherefore I say that, if there were in the [same] province a Guelph city which should conspire against the good order of the city of Pisa, and some Pisan citizen should join with that other city, giving aid, counsel and favor contrary to

the statute of his own city, then he would be in fact a "Guelph." He would be acting against his own city. But if we suppose that a citizen of Pisa is an official in Perugia, which is a Guelph community not hostile but friendly to Pisa, then, although this man is a Guelph at Perugia, he is not, on that account, to be called a Guelph at Pisa, nor does he come within the meaning of the Pisan statute. Taking account of differing conditions a man may have different party connections, — as we have said.

I say also, that, even if it be proved that a man is of Guelph lineage with respect to that ancient conflict between the Church and the Emperor Frederic, nevertheless he is not to be called a Guelph within the meaning of the [Pisan] statute, — as I said above. Nor do I think that the evidence of common report is sufficient; for in law everyone is supposed to be of the same political faith as his community. It is a principle of the law of nations that we obey our parents and our country; therefore, by common report or suspicion alone a false conclusion may be reached. On account of the difficulty of proof in these cases, in certain cities all those who belong to the respective parties are registered in a book, so that the desired information may be had by inspection; but this is an odious and unfair practice.

But now, how can it be proved that a city or a fortified place or any other community belongs to a certain party? This is a doubtful matter. To make it clear let us suppose that there is a statute in Perugia which provides that any citizen engaging in warfare against any other Guelph territory shall be punished by a certain penalty; and let us suppose that a certain nobleman is put on trial for this offence. The prosecution must prove that that other territory is Guelph; the defence must show that it is Ghibelline. The method of proof is doubtful, and the proof by

common report is insufficient, as has been said. The doubt, therefore, is in regard to the method. My understanding is, that the land is of the same party as are those who govern it. In regard to the rulers, there are various methods of proof. In some cities the ruler expressly declares when taking his official oath that he will exercise his office to the welfare and honor of a certain party. Sometimes such conditions are contained in the constitution of the city, and the proof of party allegiance is then clear. Sometimes there is a mixed government containing so many Guelphs and so many Ghibellines, and in that case the city is said to be of the party having the larger number of magistrates. But if the numbers are equal, as is the case at Todi, then we have to say that the place is neither Guelph nor Ghibelline, but belongs in a third category, namely the bipartisan. There are some cities and strong places which are governed without any party designation whatever. In that case, if there are parties in the city or province we should have to inquire to which one the place shows especial favor. As a matter of fact there are many places which have no connection whatever with our parties, as is seen especially in the countries beyond the Alps.

V

As to the fifth point, namely, how a change of party allegiance can be proved. (I am speaking now of a person of whom it is known that he was formerly a member of a certain party, for that which did not exist cannot be taken away or changed.) I say that these party divisions are based upon certain sentiments of loyalty, just as the fact of possession consists in a certain sentiment in the mind of the possessor, and it was written of old that no one can change the basis of his possession except for some

external cause. So here, no one can change his party loyalty without some external influence. That there must be some cause for a change of loyalty or of will is proved by natural reason. For, since the object of a voluntary act is some good, either actual or apparent, therefore one attaches oneself to a party because it seems good to him. And, if he changes his will, there must be some reason on account of which he withdraws from his former allegiance and takes on another. This was the motive of the lawmakers in saying: "No one can change the basis of his possession except for some external cause."

The most frequent causes of change are: some antagonism against a leader within the party, or the acquisition of an inheritance or other gain which one could not easily have without deserting one party and joining the other, or some new family tie attaching one to the opposite party. If these incidents occur at the same time with desertion from a party they furnish a basis for proof of a change of allegiance, in accordance with the above mentioned principles of law. But supposing one simply makes a declaration that he has changed his mind and desires to be registered as of the other party, and takes an oath to this effect, is his declaration to be accepted? I say that the answer depends upon the character of the person, and the same principle is to be applied as in the case of an infidel desiring to make a confession of faith.

VII

COLUCCIO SALUTATI

LETTERS IN DEFENCE OF LIBERAL STUDIES

VII

COLUCCIO SALUTATI

Letters in Defence of Liberal Studies

Introduction

THE two following letters of Salutati have a peculiar interest because they are addressed to a man whose station in life corresponded so exactly to his own. Like Salutati, Giuliano Zonarini had risen through the profession of a notary to be Chancellor of his native city of Bologna. A layman, a lawyer, and spokesman for a great city-state in its relations with other communities during a long and fateful period in its history, we might expect to find him facing the great intellectual movement of the time in much the same way as did his Florentine colleague and friend. On the contrary, his attitude toward the "new learning" shows all that timidity and narrowness which we are accustomed to describe rather loosely as "monkish." He seems to have shared the popular superstitions about an approaching end of the world, and for this Salutati had reproved him in a former letter: "I am not looking for the destruction of the world, which you imagine to be imminent from signs in the sun and moon and elsewhere. But, if I am to witness the end of mortal things, I will face it firmly and without fear and will strive to bear with equanimity whatever may happen."

The provocation to the first letter, dated October 25, 1378, was the reply of Zonarini to a request of Salutati that he would buy for him a copy of Vergil. The over-virtuous Bolognese was so shocked by this impious com-

mission that he improved the occasion to lecture his Florentine colleague on the dangers of having anything to do with that "lying soothsayer." This was too much for the patience of Salutati, and he rose at once to the defence, not only of the supreme poet, but of classical studies as well. His two letters to Zonarini form really but one continuous argument. The object is to show that Vergil is not merely not dangerous to Christian readers, but is positively helpful to them. The notion of Vergil as a prophet of Christianity is, of course, not original with Salutati, but in his statement of it he gives expression to views which link him closely with what we like to call "enlightenment." He protests his entire lack of faith in the reality of the heathen fables, but he is able to feel in them, and notably in Vergil's treatment of them, a kinship with the highest Christian verities. God is one and has revealed himself in many ways. The true Christian scholar reads the works of the heathen poets not to "rest in them," but to draw from them whatever of truth they may contain, and such truth cannot contradict *the* Truth. This is what the greatest of Christian doctors, Jerome and Augustine, did, and we of the modern world may safely follow their example.

If Salutati shows a mediæval readiness to draw fanciful analogies from accidental resemblances, he gives evidence that, like his master Petrarca, he did his own thinking on many subjects of the highest import. In his summing up of the Vergilian tradition he does not place his chief emphasis upon direct prophecies of the coming of Christ or the establishment of a Christian church. He accepts these as suggestions of what is to come, but what interests him more is the idea of unity in all sincere religious faith. Even idolatry, the supreme folly of the ancient world, is for him only the foreshadowing of a more ra-

tional approach to the ultimate goal of communion with God. The truly enlightened scholar will find his Christian conviction only so much the more strengthened by familiarity with those other "broken lights" of divine truth reflected in the writings of the heathen poets.

It is true, says our author, that in the days of Jerome and Augustine there was a very real danger that the surviving remnants of heathenism might exercise a dangerous attraction upon Christian youth; but these remnants have long since disappeared. No sensible person nowadays could imagine for a moment that those "divine monstrosities" had any real existence or were to be either feared or worshipped. It was in this spirit that the Fathers approached the study of the ancient authors. They used them as models of style and learned from them those arts of rhetoric whereby they were able to defend the truth against its enemies both without and within. They quoted freely from them whenever they found this useful for their own purposes. Perhaps a Zonarini may be so inspired that he can understand grammar and the Fathers without a knowledge of the poets, but plain people like himself cannot. They need the "stars of poetry" to lighten the darkness of their night.

Characteristic is Salutati's reply to Zonarini's abuse of Vergil as a *vatis mentificus*. He takes up the obviously manufactured word and plays with it in good philologer fashion. The word is a good word, in fact just the right word, only it means, not "lying" but "mind-building," and that is precisely what Vergil is for one who reads him "in a lofty spirit."

The motif of the second letter, written some seven months after the first, is essentially the same, but it adds some interesting variations. Zonarini seems meanwhile to

have advanced the notion that Vergil taught a doctrine of evolutionary fatalism implying that all things come round in a procession of cycles, and that thus no room is left for any voluntary action of a supreme being. Salutati meets this charge by citing analogies from scripture and by reference to the cyclic processes of Nature— the revolving year, the cycle of birth, growth, and death. And yet, this is not a purely fatalistic rotation.

He points to the succession of historic ages and shows how each age begins with a birth, passes through a stage of growth and ends with decay and death. Each age is accompanied by specific miraculous interpositions of divine Providence. So Vergil, while he declares the return of the Saturnian age of peace, does not include the Supreme Divinity in the process of rotation, but thinks of it as the permanent spirit of righteousness abiding through all change.

However forced these analogies and however fantastic the linguistic fooleries that made them acceptable to the taste of the day, we cannot fail to discern in them a penetrating intelligence pointing the way to a new and truer interpretation of religion in the light of a truly scientific method. It is the fourteenth-century stage of the perpetual conflict between a forward-striving enlightenment and the backward pull of an obscurantist "fundamentalism."

From a Letter of Coluccio Salutati to Giuliano Zonarini, Chancellor of Bologna

October 25, 1378[1]

After a long apologetic and self-depreciatory preface, the letter goes on as follows:

And now, my dear colleague, I will come to a matter in which you have stirred me up in no slight degree. I wrote

1. Fr. Novati, *Epistolario di Coluccio Salutati*, I, 300.

to you asking you to buy for me a copy of Vergil, and you reply reproving me for not occupying myself with quite different matters and calling Vergil — to quote your own words — a "lying soothsayer." You say that, since it is forbidden in the Canon Law to concern oneself with books of that sort, I ought not to burden you with such an errand, and you generously offer me a number of volumes of pious literature. I beg you, my dearest Giuliano, to pardon me if, in order that due supremacy of honor be maintained for the prince of Roman eloquence, the divinest of all poets, our own countryman, Vergil, and also that I may set you free from the error in which you seem to be involved, I address you in language rather more severe than is my wont.

I seem to feel a deep obligation to defend Vergil, of whom Horace says that earth never bore a purer spirit,[1] lest he be shut out from the sanctuaries of Christians. I am bound also to clear up that error of yours which gives you such a horror of Vergil that you fear to be polluted by the mere purchase of the book.

How do you happen, my dear colleague, to have this dread of Vergil? You say that he records the monstrous doings of the gods and the vicious practices of men, and

1. Horace, *Satires*, I, 540–542.

Plotius et Varius Sinuessae Virgiliusque
Occurrunt, animae, quales neque candidiores
Terra tulit, neque quis me sit devinctior alter.

At Sinuessa on our way
With Plotius, Varius, Virgil too
Have an appointed rendezvous;
Souls all than whom the world ne'er saw
More noble, more exempt from flaw,
Nor are there any on its round,
To whom I am more fondly bound.
Translated by Sir Theodore Martin.

that, because he did not, as you say, walk in the way of the Lord, he leads his readers away from the straight path of the faith. But, if you think Vergil ought not to be touched because he was a heathen, why do you read Donatus, or Priscian, who was something far worse, an apostate? Or Job, to whom you yourself call attention, was he a Christian or was he of the circumcision? Or shall we give up Seneca and his writings because he was not renewed with the water of regeneration? If we throw aside the heritage of the Gentiles, whence shall we draw the rules of literary composition? Cicero is the fountain of eloquence, and everyone who since his day has handed on the art of rhetoric has drawn from that source. Read Augustine on Christian doctrine where he seems to touch [the heights of] eloquence, and certainly you will find the Ciceronian tradition renewed in the style of that great man. Not to read the inventions of the heathen out of devotion to the faith is a very weak foundation, especially when with their assistance you can the more easily combat the futilities of the Gentiles. Don't imagine that I have ever so read Vergil as to be led to accept his fables about the heathen gods! What I enjoy is his style, hitherto unequalled in verse, and I do not believe it is possible that human talent can ever attain to its loftiness and its charm.

I admire the majesty of his language, the appropriateness of his words, the harmony of his verses, the smoothness of his speech, the elegance of his composition and the sweetly flowing structure of his sentences. I admire the profundity of his thought and his ideas drawn from the depths of ancient learning and from the loftiest heights of philosophy.

In these days there is no mixture of heathenism among Christians throughout the civilized world:

Excessere omnes adytis arisque relictis [1]
Di . . . .

(From every altar and protecting fire the gods are fled
Which were the kingdom's stay),

[those gods] whom that accursed blind superstition worshipped have vanished from their altars and their shrines and have abandoned their glory to the true God, to Christ our Lord. It may have been worth while to warn Christians against the study of the poets at a time when heathens still lingered among them, but since that pest has been exterminated, what harm can it be for consecrated men to have read the poets who, even if they are of [no] profit for the moral conduct of life, nevertheless cannot spread such poison for the destruction of our faith that we shall cease humbly to adore our Creator. Was ever a girl so silly, an old wife so foolish, a man so demented as to imagine that Jupiter, Venus, Mars and all the rest of those divine monstrosities were either to be feared or worshipped? Believe me, we need have no fear of this in our day, — I will not say among those who are learned enough to rise to the reading of the poets but even among the uneducated.

But you will say, that when we are reading these vain things we are wandering away from the study of sacred literature, since — to continue the Psalm which I began elsewhere — that man is blessed, "whose delight is in the law of the Lord and in his law doth he meditate day and night." I grant you, it is a more holy thing to apply oneself without ceasing to the reading of the sacred page; but these devices of the heathen, even the songs of the poets of which you have such a horror, if one reads them in a lofty spirit are of no little profit and incline us toward

1. Aeneid II, 351–352. Transl. T. C. Williams.

those writings which pertain to the faith and the reading of which you urge in your letters.

I might cite to you many passages from our own Vergil which you could readily see were drawn, not from any made-up fables or from the heathen learning, but from the very heights of a true doctrine of God. Perhaps it is in the nature of truth itself to rise above the floods of error; or perhaps God has willed to reveal himself to men through the witness of all sects and professions.

To recall some of the more evident of these passages: — Our poet says:

> *Terna tibi hec primum triplici diversa colore*
> *Licia circumdo terque hec altaria circum*
> *Effigiem duco: numero deus impare gaudet.*[1]
>
> With triple threads of changeful colors three
> I wind thee round. Thrice round the altar then
> Thy image goes. Odd numbers please the gods.

How well these words may be applied to the mystery of the inexpressible Trinity if one looks at them aright, I leave to the judgment of yourself and all those who deal with theology. Nor is there wanting in Vergilian verse a further confirmation of the divine essence. When he said: *Nate, mee vires, mea magna potentia solus*[2] (My son, who art alone my strength, my mighty power), he referred plainly enough to the unity of the Father and the Son. There is, further, this well-known reference to the institution of the Church: *Casti maneant in religione nepotes.*[3] (Pure in this rite let thy descendants bide.) But why say more? Did he not assume the immortality of the soul and say that some would be punished forever, as for example:

1. Vergil, Ecl. VIII, 72–74. Transl. T. C. Williams.
2. Aen. I, 664.
3. Aen. III, 409. Transl. Billson.

sedet eternumque sedebit
Infelix Theseus,[1] —
There sits and aye shall sit
Unhappy Theseus, —

while others who are to attain to glory are to be tried by various sufferings:

Quisque suos patimur manes; exinde per amplum
Mittimur Elysium, —
We bear each his own doom; thence we are sent through wide Elysium, —

adding, in harmony with the Gospel: *Pauci leta arva tenemus*[2] (But few attain the joyous fields).

I admit that these truths are to be read more fully and more profitably in the writers of sacred books; but it is a part of the glory of Almighty God that he has revealed to future ages so many mysteries through the ignorant or through those who were aiming at other ends, even through those who knew him not.

I have dwelt upon this at such length that you may not suppose the reading of Vergil to be a mere idle occupation if one is willing to take the right view of it and to separate the wheat from the tares. Not, indeed, that I believe one should look there for the teachings of our faith or for the Truth; but, as Seneca says of himself, I go over into the enemy's camp, not as a guest or as a deserter, but as a spy. I, as a Christian, do not read my Vergil as if I were to rest in it forever or for any considerable time; but as I read I examine diligently to see if I can find anything that tends toward virtuous and honorable conduct, and as I run through the foreshadowings of his poetry, often with the aid of allegory and not without enjoyment, if I find something not compatible with the truth or obscurely stated, I try to make it clear by the use of reason. But,

1. Aen. VI, 616–617. Transl. Billson. 2. *Ibid.*, 743–744.

when it is my good fortune to find something in harmony with our faith, even though it be wrapped up in fiction, I admire it and rejoice in it, and, since our poet himself thought it well to learn even from an enemy, I joyfully accept it and make a note of it.

Don't imagine that the holiest of men have been ignorant of poetry or of Vergil. Read the letters of Father Jerome; you will find almost every one of them adorned with verses from the poets. In his invective against Vigilantius Gallicus, not to mention others, he piles up so many poetical quotations in the prologue, that one might think it was not a Christian who was writing but some professor of the profane literature of the heathen. And what is still more remarkable, in the famous letter to Pope Damasus in which he expounds the parable of the Prodigal Son with divine genius, when he came to speak against poets and rhetoricians, he said: "The songs of the poets, the wisdom of this world, the display of rhetorical words are the food of demons. They delight everyone with their charm, they catch our ears with the modulation of sweetly-flowing verse, they enter into our souls and capture the secret places of the heart. Even when read carefully with the most devoted labor, they give us nothing but empty sound and noisy speech. In them is found no true satisfaction, no refreshment of righteousness; they who devote themselves to them remain starving for the truth and poverty-stricken for virtue."

While he said all this and much more in the sequel, nevertheless, bearing in mind the line of Vergil:

> *Matri longa decem tulerunt fastidia menses,*[1] —
> Begin, boy-babe! Give back thy mother's smile
> Who ten long moons her weary sickness bore.
> Begin, boy-babe! —

1. Verg., Ecl. IV, 60. Transl. T. C. Williams.

he says that he himself had borne the burden of ten months. And, writing to Augustine, he did not omit this verse:

Musica in luctu importuna narratio.

He recalls also the lines of Persius:

Ut nemo in sese tentat descendere, nemo,
Sed precedenti spectatur mantica tergo,[1] —

How utter, utter is the dearth of men who venture down into their own breasts, and how universally they stare at the wallet on the back of the man before them, —

and — not to turn aside from our Vergil — he adds: "Remember Dares and Entellus." [2] Now, when a man in one short letter written to a most eminent Christian introduced so many poetic references, did he not give us an example that we should be careful by no means to neglect the poets? As to Jerome, on whose authority the sacred canons forbid the reading of Vergil and other poets, I would maintain without hesitation that if he had been ignorant of the poetry and rhetoric against which he inveighs so beautifully he would never have handed down to us the volumes of Holy Writ translated in his sweetly flowing style from both Greek and Hebrew into the Latin tongue. Never could he have spoken against his critics with such brilliancy of ideas and such charm of language. Nor, in his criticism of rhetoric — which I should regard as a fault in another man — would he have made use of the forces of rhetoric.

Furthermore, Aurelius Augustine, exponent and champion of the Christian faith, displayed such knowledge of the poets in all his writings that there is scarcely a single letter or treatise of his which is not crowded with poetic

1. Persius, Sat. IV, 23–24. Transl. Conington. 2. Aen. V, 369 ff.

ornament. Not to speak of others, his "City of God" could never have been so strongly and so elaborately fortified against the vanity of the heathen if he had not been familiar with the poets and especially with Vergil. The theologians of our day confess they cannot understand these books, on account of their frequent references to Vergil and other poets, — at least not their finer shades of meaning, and I have often known men of no mean ability and influence who have read Vergil and others for the sake of this knowledge and have eagerly gone a-begging to schoolboys who they thought could teach them.

Now, if you, through the power of your intellect, without a knowledge of the poets can understand grammar or most of the writings of the holy Fathers, filled as they are with poetical allusions, do not forbid the reading of Vergil to me and to others who delight in such studies, but who have not attained to the lofty heights of your genius. If you enjoy reading your books as by a most brilliant illumination, allow me, whose eyes do not admit so much light, in the midst of my darkness to gaze upon the stars of poetry, whereby the darkness of my night is brightened, and to search out a something for the upbuilding of truth and of our faith from amidst those fables whose bitter rind conceals a savor of exceeding sweetness. If you neither can nor will do this, then, with all good will on my part, leave the poets alone!

There remains one passage [of your letter] which really angered me. You called Vergil a "lying [*mentificus*] soothsayer." I understand you to mean by this word that he lies himself or causes others to lie. If any one else had said this I should have taken it quietly and merely said: "There are as many fools as there are people who try to rival Vergil with their verses!" But of you I do not venture to say this. One thing, however, I will say: that you

could not have chosen a more appropriate word. I confess that Vergil may rightly be called a *vatis mentificus*, that is, "one who edifies the mind." He adorns Aeneas with every virtue and sets him forth as an example for us. He leads him in a marvellous progress fleeing from a corrupt city, a citadel of vice, the haughty Ilium — . . . *in Latium, sedes ubi fata quietas, ostendunt*[1] (To Latium where the Fates show us a quiet resting-place), away from the fleshly lusts and mockeries of this present life to the peace of virtue, and there, as in a Troy renewed, he may do heroic battle with iniquity, and, fighting with better fortune at a more advanced age may win his triumph after traversing the errors of mortals by observation and noting the wretchedness of vice in the underworld. If one is willing to examine all this in a lofty spirit he will find in that author not merely a delightful outside with the fragrant perfume of flowers, but such food at the marrow that it may well be said to nourish the thinking mind.

There are many things I wanted to say to you on this subject, but the list of them would stretch out to such length that with my occupations, though my habit is to compose rapidly and to write quickly while composing, I could not develop my opinions, especially within the narrow limits of a letter.

So, good-bye! And, according to that verse of Cato[2] — for that apocryphal book has by usage come to be thus known — go right on reading your Vergil, secure, since you are not a priest, against any prohibition by your law.

1. Aen. I, 205–206.

2. *An di sint caelumque regant, ne quaere doceri;*
Cum sis mortalis, quae sunt mortalia, cura.

(Seek not to learn whether there be gods, and whether they rule the heavens. Since you are mortal, attend to the things that are mortal. *Catonis Disticha de Moribus*, ed. Némethy, II, 2.)

You will find in him delight for your eyes, food for your mind, refreshment for your thought, and you will gain from him no little instruction in the art of eloquence.

Fare you well again and again, my dearest friend and colleague! Don't forget me and do give me not only your approval, but your love!

FLORENCE, October 25, 1378.

To GIULIANO ZONARINI, CHANCELLOR OF BOLOGNA

May 5, 1379[1]

My dear Colleague:

It is now nearly a month since I was surprised to receive a letter of yours without address delivered by you in person to my servant. Not knowing for whom it was intended, and my servant being unable to read, I opened it, and when I found enclosed a letter of my excellent old friend Domenico Silvestri directed to you I was still more surprised and could not understand it until I had run through both letters, and then to my surprise were added both joy and pain. I was grieved, I must confess, to see what a controversy had arisen between you two, both of whom I love as my brothers, and that you had both gone into the fight with such unseemly bitterness. Neither of you showed any regard for learning nor any self-respect and you attacked each other with the "savage tooth of a Theon." From the merry war in which you and I had engaged about the praise of Vergil you descended to a regular battle and pommelled each other with cruel fists.

But, after this grief there came an immense joy with the hope that, as my friend Domenico declared, this controversy would be for you both the beginning of a great

1. Novati, *Ep. di Col. Salutati*, I, 321.

and well founded affection. To conclude in the words of our Papirius:

Non hec incassum, divisque absentibus, acta;
Forsan et has venturus amor premiserat iras.

These things were not done in vain or in the absence of the gods; Perchance a love that is to be sent this anger in advance.

It is no new thing that between the greatest of men strife and conflict have been the prelude to a warm attachment. Not to mention others, I will speak only of those two lights of the Christian faith, those rocks for heretics, approaching which the ships of error were either dashed to pieces or happily sailing by reached the haven of salvation, — Aurelius Augustinus and Eusebius Hieronymus often in their correspondence made stinging attacks upon each other and afterward found mutual excuses and exchanged most amicable letters.

You commend the reading of Holy Scripture in such a way that you seem to have a perfect horror of poetry; while he [Domenico] neither disparages the sacred writings nor thinks that profane or heathen works should be abandoned. This was and is my opinion also. It was, moreover, the opinion of Jerome when he was bitterly attacked by a certain Magnus, an orator at Rome, and I wish you would read his letter and see how many holy men, both Greeks and Latins, he enumerates who made use of the poets and philosophers even in their dogmatic writings. Now certainly they could never have reproduced secular learning with such complete understanding without daily practice in it.

Nor would I deny, since we live in a world of transient things, that it is better to reach heaven by the straight way, through the study of the sacred writings than through the twistings and turnings of the poets. But, seeing that both roads properly followed lead to the same

desired goal, though the former is to be preferred, the latter is not to be neglected, — and perhaps this is not your contention.

Every creature and every device of created beings may, if we look at it aright, invite us in some way toward our eternal Fatherland. What could be more blasphemous if we consider the light of the divine teachings, what more blameworthy or more futile if we reflect upon the darkness of human reason, than to invent the worship of idols and to render, not even to a creature, but to the devices and works of a creature the honor which we owe in all humility to our Creator! And yet this invention had a useful result. The gentile world, accustomed to adore these works of men's hands, yet always saw in them a vision of some divine essence, and when they had been taught by an easy process of reasoning, even in the very sanctuaries of their temples, that these images of men and beasts were not gods they were turned the more readily to the one true God.

If then the invention of idols, than which nothing could be more remote from or more contradictory to Almighty God, was of some profit toward salvation, what may we [not] hope for from the verses of the poets in which we seem to hear through the mystery of allegory or plainly in the very words themselves the echoes of the Holy Spirit of all truth.

But, lest I seem to be calling you away from sacred studies to these merely human affairs, I will say no more at present on this subject, — if only this difference of opinion do not loosen the bonds of our former friendship, and also, if you will write kindly to me and my friend Domenico, who you see has written to apologize and even confesses himself in the wrong. I hope you will think of us both with affection and answer me in a fraternal spirit.

But, while I have thought best to put an end to this discussion in order not to annoy a friend whose mind is on higher things, I will return to what you have said only to free our own Vergil from one charge you have made against him and not, like a slacker, leave him undefended. I should have dōne this earlier if your letter had not gone astray among my countless public and private papers. When it had, with some difficulty, been found, you seemed, if I understand you, to maintain that our Vergil believed — I quote your own words — contrary to the doctrine of our salvation and our hope, that the glory of God proceeds by revolution in cycles, — as in the passage:

> *Jam redit et virgo, redeunt Saturnia regna*
> *Jam nova progenies, etc.*
> Once more the Virgin comes and Saturn's reign,
> Behold, a heaven-born offspring earthward hies![1]

There have been many comments upon these verses, my dear colleague, and, not to mention some that are mere fancies rather than expositions, the famous Vergilian commentator Servius states that the Cumæan Sibyl divided the whole course of human affairs according to the metals, naming the empires of the several ages and declaring that after the final rule of Apollo all things would be made new. And this also Plato is said to have believed, assigning to this revolution of all things a certain number of millenniums, which number, however, some place higher and others lower. But, whatever may be the measure of this time, all are agreed that everything that now is shall return again. It is in pursuance of this idea that the clear-visioned seer says: *Magnus ab integro, etc.*, adding the verses you have quoted. Now, lest this revolution of times and events in the poems of Vergil and others be to you a

1. Vergil, Ecl. IV, 7–8. Transl. T. C. Williams.

cause of suspicion and derision hear, if you please, how this same thing is heard again in sacred literature.

"What is that which was?" says the Preacher,[1] and he answers himself: "It is the same as that which is to be." And he continues at length: "What is that which has been done?" "The same as that which shall be done." "There is no new thing under the sun, and it is idle for anyone to say, 'See, this is new.' It hath been already in the ages that were before us, etc." I assume that you are sufficiently familiar with what the Holy Spirit revealed in the first chapter of Ecclesiastes: and therefore you will hardly say that our Vergil has "vomited up without chewing them" — I am quoting your own words — verses, the almost precise equivalent of which are to be found by intelligent inquiry in the very oracles of Holy Writ. Nay rather, it is you who accept "without chewing" these and other profound sayings of that seer, not as they are expounded by learned doctors, but distorted into contradictory meanings.

Of course I know that neither you nor any other right thinking man could imagine that these words of Ecclesiastes give any suggestion that the race of man is to go back to primitive times, that Adam is to be formed again out of the dust of the earth and Eve made again out of one of his ribs while he sleeps, — or that, for the regeneration of mankind Noah is again, before a flood, to build a miraculous ark, that the times of the circumcision are to return and baptism be again prescribed as a new sacrament for the remission of the sins of mankind. All this is empty talk and has nothing to do with the exposition of the words we have quoted. These words require a single-minded reader and a pious expositor, lest, while we cling to the letter which killeth, we lose through ignorance the spirit that maketh alive.

1. Ecl. I, 9–10.

You would not, I am sure, deny that very many of the processes of Nature move in periodic cycles. The fourfold change of the twelve months follows the course of every year. We see first the beginnings of new birth renewed in the germinating earth; then with various changes we see these beginnings, warmed by the summer heat, shaping themselves into the abundance of the coming fruit; then, when they are ripe for the birth they give each its fruit in due season, and, by as much as they were warmed by the summer's heat, they are tempered by the autumn coolness; finally, in the depth of winter they are all drawn up into the bosom of the all-producing earth to return once more to their beginnings when the frost gives way to the warmth of spring.

The same thing is plainly to be seen in the course of human affairs if one turn carefully the page of history; for, though nothing returns in precisely the same form, yet we see daily some image of the past renewed. Let us consider, if you please, the ages of the world, which Hebrew truth and the authority of all the holy Fathers mark off by certain limits of time into five periods already accomplished and a sixth now in progress. The first age began with Adam, from whom Almighty God called forth such a vast multitude of human beings, and ended in the cataclysm of the Deluge. The second, beginning with the preservation of Noah, ended with the burning of the five cities. The third began with the journey of Abraham, after Lot (his brother's son) had been saved, and came to its end with the expulsion of the Jews and the murder of the first king. The fourth age, beginning with David's rescue from the fury of the king, closed with the captivity of Israel, the Babylonian exile and the destruction of Jerusalem and the Temple. After this, when the three youths had been delivered from the fiery furnace and

Daniel from the lion's mouth, the fifth age began and was closed by the slaughter of the Innocents and the desolation of the Civil Wars. The sixth age, beginning with Jesus Christ, is to end, as we confidently believe, in a judgment of fire, together with the whole world.

In the first age Adam was made from the dust of the earth; in the second the human race was saved in the Ark; in the third Isaac was born of an aged and barren mother; in the fourth David was preserved from attempts upon his life and was reserved to be the seed of kings; in the fifth Daniel and the three youths were saved, and by a certain trick of Nature a man was changed into a beast; in the sixth, by a new kind of generation, the uncreated God was made man from a virgin.

The first, third and sixth ages of man, then, were marked by miraculous creations. In the second, fourth and fifth men were miraculously preserved for great, mysterious purposes, which is equivalent to creation. As each of the preceding ages was terminated by a notable slaughter, so that in which we now are is, we believe, to find its end in a conflagration of the whole world.

Now, do you not see how, by a certain alternation of events, similar things took place in each age? It is, therefore, not to be wondered at if our seer [Vergil], through the brilliancy of his genius or by some divine revelation, or even ignorantly, — as we read of Caiaphas in that accursed council saying that "it was expedient that one should die for the people," — is it to be wondered at if Vergil became a prophet and, seeing the beginning of the sixth age, wrote

> *Magnus ab integro seculorum nascitur ordo?* [1]
>
> (The vast world-process brings a new-born time.)

1. Vergil, Ecl. IV, 6. Transl. T. C. Williams.

And, seeing that the Roman people, as Holy Scripture tells us, had laid aside their arms, that peace and order were spread over all the earth, — a thing which was said to have happened but twice before since the foundation of the City, — it is no wonder that he wrote:

Jam redit et virgo, redeunt Saturnia regna.

For, according to the inventions of the poets the Virgin is called "righteousness" from her supreme purity. The reign of Saturn, too, was going on in sweetly gliding peace. And, since there can be no peace without righteousness, he was right in saying that the Virgin, that is, righteousness and the reign of Saturn, that is, of peace, had returned. Furthermore, he added:

Jam nova progenies celo dimittitur alto,

either following the idea of Plato, that souls already created and lodged in the stars of heaven came down into human bodies or else he used the words "a new offspring" according to the teaching of the true faith, meaning that souls created out of nothing are poured out, one for each separate body and are created as they are poured in [to the body]. Perceiving, therefore, that men were about to return from the savagery of civil wars to the delights of peace he spoke of a new offspring descending from heaven. What glory of God he assumed in these words, or what glory he thought moved in revolution by cycles I do not see, in spite of your opinion, and [I think] he meant just the opposite. When he had enumerated the blessings of that age he added:

Talia secla, suis dixerunt, currite, fusis
Concordes stabili fatorum numine Parce,—

"Thus let the ages ever onward roll!"
So sang the Fates turning their spindles round
Obedient to the fixed decree of doom,—[1]

1. Vergil, Ecl. IV, 46–47. Transl. T. C. Williams.

not including the Spirit of God in the revolution of the ages, but rather giving to it the attribute of permanence.

Now, if we are willing to take *nova progenies*, as many do, as meaning the Christ, the very incarnate wisdom of God, our poet is easily cleared of that charge about cycles by the fact that he said "new" and not "recurring" or "repeated." Do not let your hatred of Vergil lead you to make unfair charges against him. Do not condemn with your authority one who, if we have any confidence in Macrobius, a man of the greatest learning, is not open to criticism and whom Augustine and Jerome and many of the holy Fathers exalted with the highest praise. Do not put forward that criticism of Cato: *Nam miranda canunt, sed non credenda poete.* (Wonders, not creeds, the poets sing.) Marvellous things they do indeed sing and set forth in their poems under the form of unbelievable fables; and yet they do this in such a way that, however they may outwardly disparage our faith, they hide beneath the surface an equal admiration for it.

But now, if agreeable to you I will impose silence upon myself in this discussion, leaving you, without further argument, to the books of orthodox scholars, provided you will allow me to browse in your writings and in those of the poets in a pleasant alternation of the serious and the entertaining.

Farewell, most excellent Colleague!

The apology of my friend Domenico, which he handed to my servant within a day after he had seen that unaddressed letter of yours, I enclose with this, begging you to reply to him calmly and kindly and to admit him into the company of your especial friends.

Florence, May 5, 1379.

The critics of the "New Learning," with whom we are now to be concerned, represent a line of attack quite different from that of the Chancellor of Bologna. If we think of Zonarini as expressing the conventional religious sentiment of the average layman with no special class interest to defend, we find here the champions of the educated, or semi-educated monastic clergy, equally honest in their convictions, but fully conscious that, if the method of "science" were to be applied to theology and to the institutions of the Church, the system for which they stood would be seriously endangered.

The first of these critics was a monk of the Order of Camaldoli living in the house of St. Mary of the Angels at San Miniato near Florence. A member of an honorable Florentine family, Giovanni di Duccio had spent his early life as a soldier of fortune in the service of the Republic. He had taken part in a Florentine expedition against Milan, and seems, on his own statement, to have played the rôle of the typical condottière at least as thoroughly as others did. Later, having entered the religious life, he was assailed by scruples of conscience on this account. To ease his mind he applied to his worldly counsellor Salutati for an opinion, and was answered, apparently to his satisfaction, in a letter of September 15, 1393.[1] Again, in 1395, he asked advice on a more speculative subject and received a reply.[2] During the next few years the excessive scrupulousness of the converted soldier appears to have increased. He became especially troubled by the progress of "humane" studies and by the moral perversity of some of their followers. Again he turned to Salutati, the acknowledged leader of the new movement, but no longer for advice. On the contrary, he reproaches his former counsellor for the part he was taking in draw-

1. Novati, Epist. di C. Salutati II, 462. 2. Novati, III, 98.

ing the attention of youth from religious to secular subjects. Salutati's reply,[1] brief and in good temper, reminds his critic that "poetry" is found in Holy Scripture, is approved by the example of pious Fathers and is a good gift of God to one who uses it for good purposes, as he himself professes to do.

Evidently the poor monk was not satisfied. He returned to the charge and went so far as to write to a young friend and pupil of Salutati, one Angelo Corbinelli, urging him to abandon the pursuit of liberal learning. This letter reached the master, and the present treatise is his answer. At the very outset we meet the phrase which forms the subject of his discourse: "poetry and secular studies." The issue is joined at once. The monk sees a young man absorbed in this new and engrossing pursuit. He believes the soul of the youth to be in danger. He fears that preoccupation with the falsities and immoralities of the heathen literature will draw his young friend away from that unquestioning faith which is the beginning and end of the monkish ideal. It is Salutati's part, now at the close of a long life spent in familiar intercourse with this literature, to show that it is not merely not antagonistic to the Christian faith, but is positively necessary to its complete understanding and its intelligent defence against attack. He announces as his programme: first to define Poetry, then to show that Holy Scripture conforms to his definition. He will then prove that the reading of the heathen poets is not forbidden to good Christians, and will close by a direct reply to Brother John's specific charges.

Poetry, he declares, is that form of speech which presents a fictitious surface but conceals a true meaning beneath. For example, every statement about God must be fictitious, because the divine nature eludes all human

1. Novati, III, 539.

definition; and yet, Holy Scripture is in its essence absolutely true. Fictitious expressions about the highest truths began with the heathen and with the Hebrew poets, and were then handed on to Christian writers. These quote freely from heathen sources, and shall we fear to study at the source what we read without scruple when it is quoted in the Christian authors? How can one confute falsehood if one does not study it?

Salutati is plainly conscious of his danger in citing the authority of Christian Fathers in the face of the well-known diatribes of Jerome and Augustine against the subtle charms of the heathen literature. He escapes this danger by insisting upon a distinction between the use of this literature as a means of culture or of defence and as an object of sensuous delight in itself. One needs only to read these pillars of the Christian faith in their completeness, to see that they give warning, not against the study of the ancients, but against "resting in" that study as if it were an end in itself. The trouble with the monks, says the humanist, is that they pick out such scattered phrases as suit their argument and thus twist and distort the true meaning.

Salutati's boldness in comparing the ancient classics with the literature of the Hebrews has the true humanistic touch. He does not hesitate to say that the crimes and vices of the heroes of the Old Testament are distinctly worse than those which offend his correspondent in the tales of the Greek mythology — "worse because the books themselves are holy and honorable." And after all, the ancient poets by their art of illusion showed that their gods were only idealized men. In a quite beautiful passage he proclaims the unity of all truth, no matter where it is found, and this Truth, the centre and sum of all separate truths, is God. Shall then, the enemies of truth make use

of the charms of literature, while its defenders are forbidden this all-important weapon? Only a fool could call that a wise policy.

To Brother John of San Miniato [1]

I read recently, Venerable Father in Christ, the letter which you wrote to that very dear son of mine, Angelo Corbinelli, and was greatly amused by it. You are trying, according to your habit, to draw him away from poetry and secular studies; or, to put it more exactly, to frighten him away from them. Whether you are right in so doing is your affair, and I leave you to the reproaches of my distinguished friend, John of Ravenna, and the many others who hold a contrary opinion.

As I read the beginning of your letter I was, to tell the truth, somewhat disturbed. You begin with these words: "The question I now bring forward for discussion with you I have only recently gone into at great length with my friend, the famous Coluccio, in several discourses back and forth, but the case is as yet not decided. I, however, as the saying is, remained alone upon the field, arms up and with my arguments not exhausted. I believe that I was undoubtedly the victor, and, though he is my superior in skill and diligence, yet I knew my man, and where his strength gives out he would not be ashamed to be beaten."

These are all your own words, and how can you believe yourself the victor when you confess that the case is as yet not decided? You might have alleged the passage of time and claimed that the limit was up; for the law does not permit a civil case to delay more than three years, but requires it to be settled within that time. In fact, I believe it is nearly five years since I received your last letter; but since on your own statement the case is still pending I will

1. Novati, IV, 170. Ep. xxiii. Jan. 25, 1405–[6].

make use of the right which you grant me and will revive the slumbering dispute lest you convince yourself that I am beaten instead of being, as I am, the victor and (therefore) silent. I did reply to your objection at the time, briefly indeed but with solid argument and in such a way that the magic spell of your rejoinder did not, rightly considered, at all affect anything I had said. My line of battle stands firm, my opinion still unshaken, and up to the present moment you have not knocked a single pebble out of my wall.

But I see you have not yet grasped the terms of the problem and are still caught in the simple-minded delusion that this Poetry of ours is a grave and unpardonable crime and a dangerous kind of humbug. If this be so, if under the cover of fictitious words there cannot be the purity and solidity of truth, tell me, I conjure you, how is this true: "The Spirit of God moved upon the face of the waters?" or this: "God said: let there be light!" and hundreds of other similar sayings? How can a corporeal act be reported of the spirit of God which is an incorporeal thing? How can it be said that "God said, let there be light!" when God has neither mouth nor tongue which are the members and implements necessary for speech? But of this later.

Now, that you may plainly perceive the truth, I will first show what we should understand by "poetry"; then I will make clear that the Holy Scriptures are not merely closely related thereto, but that in their form they are, in the truest and most complete sense, nothing else than poetry. Thirdly, I will try to show, as far as may be necessary, that the reading of the heathen poets is not forbidden to good Christians; and finally I will attempt to reply to what you have said, so that you may readily cease to imagine yourself the victor.

In the first place, every expression in speech is a concept of the mind before it is brought out in words, so that there can be no utterance which did not first exist in the mind. Whence it follows that the words we use have no meaning whatever except what is formed in our intellect. This we express through the agreements of grammar; we demonstrate it by the force of logic and drive it home by the arts of rhetoric. But when we desire to speak of God, since we do not comprehend him, the concept being wanting, there are no words in which we can suitably discourse of his unspeakable majesty, for if we could say the least thing about this, it would not be unspeakable. To supply this need mortal men have been compelled to think out another and a most excellent way of speech. But this process of reflection could not be in terms of grammar, the function of which is merely to express mere concepts by mere names and words. Since men could not see God but could see many of his works, they could know him only by his works, that is, by a reverse process, and so they began to speak of the divine being as if he were a kind of man, since they had nothing higher than man which they could understand and grasp through the senses whereby our knowledge is acquired. Whatever, therefore, we say about God is a human fiction borrowed from ourselves and from our actions. Alluding to this our Cicero says: "Homer imagined these things, ascribing human qualities to the gods," and he adds, as if wishing for something beyond human power: "I would prefer to ascribe divine qualities to ourselves."

And not only in speaking of God has this been done and is still done, but also, as Cicero says, men pretend that in the realms below things are done which without bodies can be neither done nor understood. They could not grasp with their minds the idea of pure, abstract living

spirits but required some form or shape for them. He adds: "In our neighborhood is the Lake of Avernus

> *Unde anime excitantur obscura umbra, aperto ostio*
> *Alti Acherontis, falso sanguine, mortuorum imagines.*" [1]
>
> (Whence souls are called forth from the dark shades through the opened gate of deep Acheron by false [salted] blood — images of the dead.)

"These images they represent as speaking, but that cannot be done without tongue or palate or the action and form of the throat, the sides and the lungs." Such are the words of Cicero, and they make plain, though it is clear enough of itself, that not only when we speak of God, but also when we discourse of incorporeal things, we are speaking figuratively, and what we say is, on the surface, false. This is the poetical manner of speaking, presenting outwardly what is false but containing within a hidden truth. Skill in this matter, the science or system of it is called "poetry" or "the poetic art"; the inventor or artificer is called "poet." Father Aristotle wrote a special treatise on this subject after his discussion of the whole *Trivium*.

Thus you can readily see that to this faculty belong especially all tropes, or metaphors, figures, turns of expression, transpositions, allegories, figurative expressions or parables. These, though they are treated in the science of grammar or rhetoric, are borrowed from the very essence of poetry — just as, when logic treats of the concept it borrows this from the art of rhetoric of which the concept is the special instrument, as the syllogism is of dialectic; but when the rhetorician treats of this [qu. the syllogism], as they all do, he is trespassing on foreign ground.

You may, therefore, define poetry as that mode of speech which either in form or substance means some-

[1] The text of these verses is very corrupt, but I translate them as they stand. The sense is clear.

thing different from that which it presents. It was devised by necessity, accepted and amplified by practice, not merely when necessity required, but when adornment was desired. Poetry is distinct from every other type of discourse, and is defined in its own terms, and if you are willing to examine into it I cannot see what objection to it you could possibly find.

Now, to come to my second point: Do you not see that sacred literature, the whole body of Holy Scripture, is, rightly considered, nothing else in its method of expression than poetry? For, when we are speaking of God or of incorporeal beings nothing is literally true, but beneath that surface of fiction there is nothing that is not true. And what other objection can you have to poetry? What is there about it that you can find to condemn? If you object to its method of expression you are beyond a doubt condemning sacred literature and the Holy Scriptures. For, what is Holy Scripture, so far as its form is concerned, but a fictitious thing, false as to its speech, although beneath this veil it hides the most absolute truth? Who could bear it if he were to take literally this passage of Scripture:

"And God saw that the wickedness of man was great in the earth, and that every imagination of the thoughts of his heart was only evil continually. And it repented the Lord that he had made man on the earth, and it grieved him at his heart. And the Lord said, I will destroy man whom I have created from the face of the earth." [1]

First, as to the words, "When God saw." Since sight belongs to those who have eyes and God has no eyes, how can this phrase stand? But you will say: "We see both with our eyes and with our minds." That I admit. The one is spoken literally, the other figuratively. Literally we

1. Genesis VI, 5–7.

see with our eyes; figuratively we see with our minds. Perhaps it would be more correct, more in accordance with the real meaning of the word, if in speaking of the mind we should say "perceive" rather than "see"; for "perceive" means both to see and to reflect. Let each be used in its proper sense. "When God saw" is not used in its strict sense, and cannot be true in the literal meaning of the words.

And still less can this be true: "It repented the Lord that he had made man on the earth." Does repentance accord with the unchangeableness and eternity of God? Else how can this be true: "God spake once," [1] that is, as Father Augustine thinks, he spoke inflexibly, unchangeably; for nothing is less characteristic of God than repentance. And as to what the prophet says further: "and it grieved him at his heart," how can this be literally true, since God has neither heart nor anything that can be called his reason within him. He is incorporeal and of so simple a nature that he cannot be distinguished from his own being by [any] essential quality. For according to many philosophers God alone is the same in his being and in his essence, since his being, having no beginning, has also no change or sense of continuance. But this is not the case with other things, even with eternities which, rightly considered, are eternal in the sense that they have a beginning, and thus really and truly differ from Eternity, the very nature of which is to be without beginning.

I am aware that many moderns, and ancients too, whose opinion has been exploded and, in my judgment, properly rejected as old-fashioned and out of date, used to think and to-day, when these ideas are being renewed, still think that being and essence are in reality the same. If these people wish to be believed they ought to teach that

1. Psalm LXII, 11.

the permanent and the successive are the same, and that the whole is the same as that which has no parts. In fact being, taken literally, has past and future only in the sense that it never exists except for a single instant. — But of this elsewhere! I don't see how I could have strayed so far from my subject; and now let us go back to where we wandered off.

Since God is incorporeal, having neither heart nor anything that can be distinguished as "within" or "without," he is of such nature that it can in no wise be said of him "it grieved him at (or within) his heart." But that divinely inspired man of whom it is written that God showed to him His glory [Moses] taught us to speak of the divine spirit as by figure and comparison when we desire to refer to Him. Yet this was not discovered by him as a new thing, but was taken over from some other source. For many had gone before, not to mention our first parents, with whom this manner of speaking began. We read that Cain and Abel made the first sacrifices and conversed with God; that Enoch son of Seth first began to call upon the name of the Lord. We know that Noah spoke with God and Abram as well and Abraham after his name had been lengthened, and many others before Moses spoke many times with God. Among these, though it is not expressly so stated in Holy Writ, it can and ought to be evident that there were very many discourses about God, and in these began that art of Poetry which alone was proved capable of doing, not literally but in involved and figurative language, what was not possible in mere statements; so that we are able, after a fashion, to speak to the intellect of the unspeakable majesty of the supreme deity.

From this has grown that mode of expression and that art of covering a zeal for truth with a surface of falsehood

of which we are speaking. It was adopted by theologians, not only by those of the Gentiles, like Orpheus, Museus and Linus, whom Augustine names among the first Gentile theologians, and all the rest who were led into error by that form of blindness, but also by all those chosen by nature or by circumcision from the people of God who have spoken piously and rationally of God. Finally it came also to Christians, who received it from all the prophets and sacred writings and found it mingled with the Holy Gospels by our Savior himself. Indeed, if there were in the Gospels nothing else but the countless parables which Christ put forth, even though the Gospels lacked those other infinite mysteries in which they abound, it ought to be sufficiently clear to everyone that he did not disdain the art of poetic speech.

It follows, therefore, that this device is rather divine than human, and this is abundantly proved by the prophetic visions of dreams which, not to mention others and passing over the witness of the heathen lest I offend your ears, Joseph, the holiest of the patriarchs, set forth in his captivity to his companions and to the king's majesty, as he had done before to his father and his brethren and afterward interpreted to others. In these visions it is evident that God spoke many times in figures, so that we must admit that this marvellous mode of speaking in strange locutions is derived from God and not from men.

So it seems to me, my dear John, that you and the rest who have such an abhorrence of poetry are all too simple souls and are making a great mistake in trying to scare everyone away from imitating a divine form of speech as from a heinous crime. Forbid it if you please, and if you can, to yourselves in the cloister, but don't meddle with people outside. This is not within your province or your power. Forbid it to yourselves, as I have said, if you can,

and see how many times a day you will be offending against your own law!

And now, to come more directly to my third point: What right have you, I beg you, to forbid my friend Angelo to indulge his taste for oratory, poetry and philosophy? What rights have you over any one outside your monastery? True, it is right for you and for everyone to encourage and even to command that which is honorable and to prohibit the contrary, but what is there in these things which makes it right to forbid them? I know and read daily in Jerome, Ambrose and Augustine splendid passages from philosophers and orators and verses from the poets which shine out like stars from those most sacred writings, and I do not suppose you condemn this as a crime. If things true and holy, decorous and beautiful, are found in those doctors and may be read there without harm, why should these same things be called profane and infamous in the original writings of their authors? Why are they forbidden to us if they were permitted to holy doctors? Or, perhaps, are they false and wicked at the source and become true and virtuous when a little trickle of them occurs in the doctors? I cannot see why they become anathema on the lips of those who read them, when those holy men took them as true and sacred from the hands of their authors.

I beg you, my dear John, put an end to this and give up the fight. Do not have such confidence in your own purity and the judgment of a few persons as to forbid as unbecoming what the holiest and most universally approved doctors have done without hesitation, what is in the highest degree pious and generally commended, what makes those doctors admired by all for their learning and what gave them a far more powerful weapon against the heathen than Holy Scripture, which had influence among the Gentiles only in so far as they accepted it.

And, since we ought to be on our guard, as the Apostle says and as you yourself admit, lest we be deceived by philosophy and empty fallacies according to human tradition and the earthly elements and not according to Christ, should we not, far from prohibiting, rather require the learning of those subjects in order that we may avoid their insidious perils, may break or escape their death-dealing darts, or, as befits fighting men, return blow for blow? What is more effective in beating an enemy than to understand the system of his attack, to know how he may best be driven from his position and where he may be weakened or thrown into confusion? It has always been the supreme effort of military commanders to spy out the positions and plans of the enemy so that they might the more safely break camp or anticipate his designs and thus win the fight or snatch from the foe the victory he had already prepared.

Read, I beg you, Lactantius Firminianus, a notable and vigorous assailant of the pagan religion, subtract the fundamental things which he borrowed from poets, philosophers and orators and then consider how much force there would be in his arguments when this witness of the poets was wanting. Read and ponder Augustine's book "The City of God," than which Christianity has none more famous, and ask yourself carefully: supposing you had no knowledge of the poets and those other writings which you would prohibit, how much would there be of which you would know nothing and which, if you did not learn it, you would have to beg from others, and then answer me or judge for yourself whether a knowledge of poetry and secular literature is useful or damnable. I believe, unless you would deceive yourself, you would confess that your knowledge of the poets had contributed greatly to your understanding of those subjects; and while there

may, perhaps, be a certain danger in the philosophers on account of their enthusiasm and the keenness of their arguments, what risk can there be in the poets, none of whom, as we now understand, makes on the surface any pretense of truth.

But if we are willing to pierce with the diligence of a seemly curiosity into the inner secrets of poets and seers, shall we not find marvellous hidden truths, so that the inner meaning, even though the verses of poets may seem on the surface to be trifling and as it were, hiding under the shade of leaves, yet, since it is a true meaning, has a singular harmony with theological truth and cannot be shut out from its deepest recesses? For, between one truth and another truth there can be no contradiction, nothing that can be mutually repellent or destructive. They aid and support each other and do each other no harm at all.

Why then, O man of God, do you forbid us to read the poets whom the most holy doctors make use of for witness and for ornament? Believe me, John, the eloquent Firminianus would never have confuted the religion of the Gentiles with such elegance and such truth without the testimony of the poets. Nor would Father Augustine have demolished the City of this World so effectively without the help of the Gentile doctrine; nor could he ever have built and fortified the City of God with such lofty and such powerful defences. Never could Jerome himself, whom you bring up against me as such a convincing witness, have replied to his opponents so broadly and so eloquently and defended the cause of Christian truth so well without training in the use of poetry and rhetoric.

I wish too you would read the Dialogue of the most holy father Basil which that great scholar, Leonardo Aretino, has recently translated from Greek into Latin,

that you may see what so learned a man thinks about the reading of the poets which you are condemning. Believe me, if you will read it patiently you will change your opinion, convinced, not merely by the authority of a great man, but also by his clear and obvious arguments. I should have a few words to say about this had I not already proved my case so clearly that it can need no further defence.

Now I come to the refutation of your argument and therewith will develop my fourth section as I have set out to do. I wish to say, however, by way of preface, that it is not to be supposed that we are never to cease from the reading of poetry. Far be it from me and from everyone to fall into such an error! The liberal arts, even poetry itself, are a means not an end, an instrument designed for a far-off purpose. Consider, if you please, what Seneca says in his letter on liberal studies and, trust me! you will need no further proof.

To begin at the very foundation, let us in our introduction pay a tribute to Jerome. For he is not, as you think, opposed to me, nor does he say what you seem to imagine he does. In his sermon on the Prodigal Son he says, among other things, according to your statement: "God forbid that from the lips of a Christian man should be heard 'Jupiter Almighty!' 'Hercules!' and 'Castor!' monstrosities rather than divine beings." And just before that: "Do not read the philosophers, orators and poets, nor find your solace in their writings. The food of demons is in the verses of the poets, the display of worldly wisdom and rhetorical verbiage." And to show what the peril to readers is he adds: "These verses delight everyone with their graceful form, and while they catch the ear with their sweet and rhythmic flow they enter the soul and seize upon the innermost places of the heart." Then, hear how

he goes on to deal with you men of religion: "But now even priests of God, setting aside the Gospels and the Prophets, are seen reading comedies, chanting the words of bucolic love-songs, keeping their Vergils, etc."

With the help of all these passages, if I am not mistaken, you quote Jerome as a witness in confirmation of your opinion, but I thought they ought to be cited, not from your letter, badly corrupted as they were, but from an authentic copy. When I had searched a long time in vain for such a sermon of Jerome as the one you cite, I found at last among his letters one to Pope Damasus which was what I was looking for. That letter does, it is true, contain all you have said, but it contains also certain other things, not to mention which is nothing less than to suppress the full opinion of Jerome. Whether this is becoming to your religious character, to a professor of truth and holiness, I leave to you. For my part, it is clear to me that Jerome's opinion was very different from your statement of it.

In what you wrote — I am sure I don't see why you did not keep silence — is this passage: "Do not read the philosophers, orators and poets, nor find your solace in their writings." Now if you reflect soberly and rationally upon this you will see closely bound up with it the idea that the reading of the poets is forbidden only as an occupation in itself (*cum permanentia*). To find one's solace in reading means nothing less than to rest satisfied with it and continue in it without change. So then, all those words of Jerome ought to be understood not literally, as you try to say, but only as setting a limit to the things he forbids and not implying that complete prohibition which you have thought it your duty to teach in regard to poetry and other studies of the heathen. And although some texts have [this meaning] does he not seem to

you to say in other words: "Do not read the philosophers, orators and poets, for fear you may find solace in them"? And yet you can see clearly what Jerome himself thought on the subject. He does not prohibit the reading, but forbids one to find rest [that is, final and complete satisfaction] in it. So that it is an insulting and underhanded, — nay a malicious thing to set forth in general terms as you do what he said for a specific purpose in one sense and suppress what he really meant and thought.

Henceforth, my dear John, give up using these tricks and showing the kind of carelessness which some might call malice and fault-finding. Read the whole; compare the beginning with the end; weigh carefully the author's intentions, and if you see clearly that he means what you wish him to mean, say so if you please; but if it is doubtful or uncertain, place a lock upon your lips lest you be rightly charged with evil intent or with falsehood.

How does that interpretation of yours go with what the same Father says in this connection: "So this is my custom in reading the philosophers, when books of secular learning come into my hands. If I find anything useful in them I apply it to doctrinal purposes; if anything superfluous about idols, about love or the cares of this world, some parts I skim over, some I scratch out and some I cut out with a sharp iron tool as we pare our finger-nails." Why did you suppress this? Why did you not take pains to write the whole?

This is the real meaning of the great Father. In a letter in which he replied to Magnus, an orator of the city of Rome who had asked him why in his writings he introduced specimens of secular literature, soiling the purity of the Church with the filth of the heathen, he did not deny the charge nor apologize for his fault, but confessed the fact and sought to prove by the example of many Greeks

and Latins that this is permissible and sanctioned by usage. He declares in his teaching that Moses, the prophets and Solomon borrowed many things from the writings of the Gentiles and that the Apostle himself made use of the testimony of the poets, as will appear to you or to any one else who can read, in the clearest possible manner.

If then so many highly educated expositors of sound doctrine, of whom he enumerates more than fifty by name, defend him and his cause, it ought to be evident to you and to everyone that neither the things you quote nor the many you omit give the real intention of the writer and that they are not, as you imply, to be interpreted strictly. In fact, so true is this that Jerome himself reports that Cyprian, a most learned scholar, was reproved by the eloquent Firminianus because, in his treatise against Demetrianus he refers to prophets and apostles in whom Demetrianus did not believe, rather than to philosophers and poets whose authority he, as a heathen, could not question. And you think that philosophers, orators and poets ought not to be read, when a man like that was rebuked by another of great sagacity because he did not make use of them!

To conclude what I have to say about Jerome: consider what he himself says on the point in the same place. After much discourse in regard to the Apostle he thus declares himself in defence of secular studies: He had read in Deuteronomy that by divine command a captive woman was to have her head shaved, her eyebrows and all the hairs and nails of her body removed and in this condition was to be given to a husband. "What wonder then," says Jerome, "if I too desire (for the sake of the charm of its eloquence and the beauty of its forms), to convert the wisdom of this world from a handmaid and a captive into an Israelite and whatever in it is dead, as

wantonness or error or lust, I either cut it out or erase it. So joined with this purified body I beget from her home-born servants to the Lord Sabaoth. My work profits the family of Christ; my sin with the strange woman increases the number of my fellow-servants [in Christ]." So much for Jerome.

If then the wisdom of this world may, on account of its eloquence, piously be transferred to eloquence in holy things, and not piously merely but usefully and most honorably; if it is necessary to apply it to the conversion of the heathen, and if we must know it in order to understand the holy doctors, ought we not to be compelled to learn it rather than forbidden with terrible outcries as you are doing? Even Jerome does not forbid it excepting, as I have said, that we should not "find our solace in it." For why does that same Jerome, writing a little angrily in reply to Augustine, say: "Lest you think you are the only one who has made suggestions to me about the poets, remember Dares and Entellus and the common proverb: 'the more tired the ox, the harder he sets down his foot.'" Aurelius [Augustine] had asked him to write a palinode on a chapter of the Apostle in imitation of Stesicorus who had made songs in alternate praise and blame of Helen as one who had lost his eyes while blaming and recovered them when praising. So, when you see these luminaries of sacred learning making their jokes about the poets and frankly making use of them, and when you see that Jerome does not forbid their use or their study — except that one is not to pursue them for their own sake, which I believe to be the author's real meaning — you have no right to say so decidedly that he is utterly opposed to the reading of the poets, lest you seem to speak against reason and against Jerome himself. For what is more base in a holy man than to forbid what he himself does and make rules

for others which he openly violates himself? It is an advice, not a command, that we refrain from reading the verses of the poets, lest we find our solace in them; take away this danger and it is no longer under the ban, but is a useful and necessary thing to have acquired not merely Christian learning but that of the heathen as well.

Now, let us go on to other matters. You refer to Augustine, another leader in the knowledge of Holy Scripture. In the first book of his "Confessions," after bitterly complaining of the vanity of such things and mourning over his youth tormented by corrupting example, he pronounces this opinion: "Are not all these but smoke and wind?" And here, my dear John, you pick out the word that suits you and leave out all that on which the soundness of his judgment depends. Give us the whole, I beg you, and do not make an *ex parte* statement. The whole and complete sentence, if I mistake not, is: "O God, my true life, what is it to me that when I recite I am acclaimed above many of my contemporaries and fellow readers? Is not that all smoke and wind?" That is the complete sentence, and that clause refers to the applause of his admirers. That is what is "smoke and wind," so that if you try to twist it into something else you will be making a great mistake, since Augustine himself, as we see and as he has stated, made use of poetic material and hence did not regard that as smoke and wind but rather as something to be cited in evidence.

But now again, — you quote that familiar saying of Boethius: "Who allowed these chorus-girls [the Muses] to get at this sick man?" You suffer always from the same trouble; you are always speaking *ex parte;* the Whole neither you nor the others who are always talking about this subject understand or quote. Add then, if you please, what Boethius says a little farther on in the person of that

same Philosophy: "To Hell with you, ye dulcet sirens! and leave him to my Muses to be healed and restored!" That is the complete whole, and now you can understand that not all the Muses were to be driven away, but only those who deserved to be excluded. And which Muses did Severinus [Boethius] in the person of Philosophy think ought to be turned out? Surely those of whom he had said:

Ecce michi lacere dictant scribenda camene
Et veris elegi fletibus ora rigant.[1]

The Muses are complete (*integrae*) when wisdom is joined to eloquence and sound reason does not oppose. They are maimed (*lacerae*) if reason and wisdom, the guide of all things, be lacking. They would be maimed if the sweetness of eloquence were wanting; but now what reason or wisdom is there, when one's luck changes, to complain, to waste away with weeping, to be dissolved in tears? These he calls "stage people" because what is brought out on the stage, be it tragic or comic, is not subject to a rational judgment while the people are looking on, — neither the place nor the judge, who is the public, permits this, — but it is judged solely by the laughter, the tears or other emotions which it excites. So those Muses are called theatrical because, as happens on the stage, they arouse human passion and emotion which you, perhaps, consider immoral. It is not a disgrace to the poem or to the poet, if his verses are brought out on the stage, but only if they do not please, if they are hissed off, if they are judged to be cold or dull. He did not, then, call them theatrical because they are [in themselves] disgraceful, but because they excite emotions, as happens on the stage.

Neither should you be disturbed by the word "*meretriculas*" because it seems to be a term of reproach. We

1. Boet. I, carm. 1, 3, 4.

know that *meretrices* are so called from the price of wicked lust, but this does not in any way apply to the Muses. The word must therefore be limited to the subject matter according to which [all] discourse should be judged. Harlots have a smooth and deceitful quality, a clever readiness with tears, a greed for gain and a base way of extorting money, so that the use of their name here is explained by these traits. For the corrupt Muses are smooth and deceitful and lachrymose, and when they are brought upon the stage the poet receives a price and the actors gain their salaries, and so from these payments they are properly called "*meretrices*."

Thus, I think, I have disposed of all the authorities you quote as being opposed to Poetry. I have, I believe, destroyed the foundations of your main argument, have proved the opposite of your contention, and it now remains only to conclude my discourse. But since in the course of your reply you have sprinkled in a few things to which it would be too absurd not to make answer, I will return to these, so that you may not think you have laid down an unanswerable proposition. For you accept silence as a trophy of victory and if you get by without a fight you consider it a triumph.

In the first place, speaking against the statement which I have abundantly proved, that no form of speech has such close relation to sacred eloquence and even to divinity itself as Poetry has, you say: "If this is so then let us introduce into the choir of those who sing psalms the infamous adulteries of Jove, or the Rape of Proserpina; let us hear the voice of Tragedy and, in alternation with it, the comedies whose plots and whose very names, — Praise be to God! — have in great part, in my opinion, been forgotten. Let us confess that if, as you say, these are more closely related to divinity, our Creed (*dogmata*)

in prose should be given up and in its place or joined with it we should have one based upon the poems of the Metamorphosis! Let the secrets of Demogorgon and the adulteries of Mars and Venus revealed by Apollo and presented to the eyes of the gods, be recited, with such approval to support them — tales which, hateful in their authorship, are judged obscene by their hearers."

All this you lay down and with a suppressed chuckle, as you say, at reading what I had written, you straightway put it in writing, — I will not say in good and correct Latin; it is enough for me to answer it. Do you consider it a disparagement of Poetry that Demogorgon, Jupiter, Proserpina, Mars and beings of that sort, rather monsters than divine beings, as you have said on the authority of Jerome, or rather that the debaucheries, rapes and lusts of the gods are represented? In the names, because they are heathen, there may be some cause of offence to the eyes and ears of Christians, but, rationally considered, are the names of creatures of God to be abhorred as a kind of infamy? For these were the names of men, and to take offence at them is absurd and unreasonable. But if it is the crimes you object to and if you regard the recital of them as a foul thing, why do not the same things displease you in Holy Scripture, where far worse tales are to be found, — worse because the books themselves are holy and honorable? You and all men ought to abhor these as they would all shameful things. Immediately after the creation of man began the proud ambition of woman, her silly curiosity, her damnable desire to have what was forbidden and her appetite for forbidden fruit; and so great was this sin that when these first parents were driven from Paradise it brought condemnation upon the whole human race. To that is to be traced the first fratricide, that of Abel; then followed the bigamy of Lamech, the murder of

Cain, the violent death of the young man and, not to mention many others, the vileness of the Sodomites who tried to corrupt the angelic guests of Lot and the divine judgment by which the whole Palestinian Pentapolis, with the exception of Zoar (formerly called Bala), was destroyed by a rain of fire from Heaven. Why should I speak of Onan, the son of Judah, who when it was his duty to go in to Thamar, his brother's wife, and raise up seed unto his brother according to the Law, spilled it on the floor?

There is the case of Joseph's brethren accused of the horrible crime of plotting to murder their brother and finally selling him to the Ishmaelites. And, since you are shocked at licentiousness, have you not read of Lot's own daughters who lay with their father and conceived the patriarchs of two nations? And, speaking of rape, have you not read in the book of Judges how the wife of a Levite was seized by the young men of Gibeah and so horribly set upon that she died miserably the following morning on the threshold of her host? And the story of Bathsheba forced to share the couch of the king, and the death of Uriah the faithful! Or, if you please, the violation of Thamar, sister of Absalom, by a brother whom Absalom slew to avenge his sister's wrong, thereby polluting a solemn festival. And one might enumerate many other crimes and abominations in sacred literature; but, because they were written either to illustrate something else or to excite horror at the acts themselves, they cannot be laid to the fault of Scripture by you or by any right thinking man.

Why find fault then if you read similar things in the poets? It is abusive and unfair of you, my dearest John, to detest and abhor in the poets the very same rapes and adulteries and fornications of which you read in Holy

Writ with patience and serenity. You think that these things, occurring in the midst of the divine discourse, either have an allegorical sense without regard to their surface meaning or else that they are forbidden and condemned by the sacred teaching; but these same things in secular books you consider so atrocious that you would banish them as if they taught something to be imitated and you will not excuse them by any figurative explanation. And this is all the worse because we know that those divine sayings are absolutely true, whereas we suspect that these secular tales are merely fictions.

Now I for my part have always thought there were three reasons for reading the poets: because they employ a peculiar vocabulary; because they abound in admirably adorned expressions and phrases, and because they illustrate our life as it ought to be by praising virtue and rebuking vice. For, although they relate many scandalous things of both men and gods you will never find them praising these things. They are mentioned only to make vice hideous, so that everyone may see that such a judgment is passed upon them that neither the deeds nor the men who do them can at any time hope to escape reproof. Indeed it is, rightly considered, a mighty impulse and spur to do right and shun evil if men know that they are to be celebrated in song forever with their good and evil actions. Although this same thing is done by orators and historians, yet it is the very essence and special function of poets, since, as Father Aristotle says, "Every poem and every poetic expression is either praise or blame." And although orators and historians do this same thing, yet the former do it in order to persuade, to incriminate or to excuse, the latter in order to put in writing the truth of things as they happened, while it is the special function of poets to celebrate deeds in song in or-

der that they may praise or blame them. So, if we would form a right judgment about poets, it is necessary to admit that when they write about immoral things they desire to bring reproach upon evil persons and evil deeds, but when they speak of virtuous things they desire to praise them and thus to warn their readers against the one as unseemly and incite them to the others as worthy of imitation.

The heathen doctrine of the gods is divided, according to a statement of Varro quoted by Augustine in his "City of God," into three parts, the physical, the political and the mythical, which we call the fabulous. The first belongs to the philosophers, the second to the people and the rulers of the state, but the third is the affair of the poets. By the will of God it has come to pass that those gods which states have established by law are declared by philosophers to be naught; those which the people worship as gods in temples and at court are openly condemned by philosophers in their discussions in the schools, divine majesty being ascribed to I know not what incorporeal powers. Therefore arose rightfully the art of poetry which with its wonderful illusion showed that the gods civil and physical — for thus were they divided by Scaevola, most learned of pontiffs — with their fables and their foolish divinities, were no gods at all but men, and the worst kind of men at that, in whom not a trace of divinity could be found. Herein were the poets more sound than the philosophers, for they represented these gods as false and imaginary beings, so that all the crimes and vices which we read of in the poets are a libel upon the gods and are the clearest proof that these are false gods. Thus you in your simple-mindedness are condemning the very best thing there is in the poets.

But enough of this! There is nothing in human action

so pure that a man may not turn it to evil if he thinks crosswise and finds his pleasure in evil speaking. Even if you consider the Song of Songs according to the letter, what can you find in the poets more erotic or more in the pastoral style, — or even equally obscene or dealing more frankly with the nastiness of lust? — a book which, when you come to think of it, should relieve all poets from the charge of filthy language or of risky detail of invention. You say also that the fact that in Holy Writ the Psalms and almost all of the Canticles and the Lamentations of Jeremiah are written in metrical form does not prove that they ought on this account to be regarded as poetry, since verse is an instrument which any one may use as he will, — like a sword which, to use your own words, one man employs to repel or to avenge injuries, another to inflict them, and yet the sword is not forbidden to either. It is as if you should say that any instrument is the invention of the user and not of him who made it for the use of that artisan whose work may be and usually is made more efficient by it. It is one thing to use a tool and another to make it. The farmer makes use of the hoe and the plow, but the making of these is the work of the laborer in wood and iron. It is not for the farmer to make the plowshare or the handle of the hoe or the plow; these are the tools of the man who cultivates the land, but they are not his work; their design belongs to the artisan who serves the workers in many crafts.

Nevertheless, my dear John, the instrument of those who treat of sacred subjects is neither prose nor verse but is rather the body of the New and Old Testaments which are called by experts the new and old "instruments" by which they test and confirm suitably whatever their profession requires. Prose and verse which we produce while we are thinking out our professional works are not our

tools like those of some other craft which we receive in bodily form; we make them ourselves by an art different from that which we profess. The theologian makes verses not as a theologian but as a poet, — as Jerome felt and so admirably expressed. In the letter we mentioned above written to Magnus, an orator of Rome, he enumerated many Christian writers who had introduced heathen poetry into their treatises on divinity and said finally: "The presbyter Juvencus in the time of Constantine narrated the story of our Lord and Savior in verse and was not afraid to bring the majesty of the Gospel under the rules of metre." Do you not think that Jerome would agree with you that metre is the common property of all and not peculiar to poets? What was there in the gospel history of Juvencus to keep Jerome from defending poets except that he (Juvencus) had treated the holiest of subjects in verse, which is the special function of poets. But, I pray you, who would say that any portion of Scripture is really a poem, though it be composed in verse, even though the narrative be in poetic form, that is, hiding truth under a false covering of words. A poem is one thing, a narrative in poetic form is another. A poem is man's invention, a fiction or the relation of something fictitious; but Holy Scripture is not of human invention, is neither fiction nor related as something fictitious, but as absolute truth even though in a perverted or inappropriate form of speech. So that it is irrelevant for you to imply that Holy Scripture is a poem, as you have inconsistently brought forward against me.

As to the quantity of things you have strung together about truth and eloquence: I cannot see what they amount to. Is it not a fact that all truth is from God? If you do not believe me, I pray you to believe Augustine. At the beginning of his treatise on "The Eighty-three

Questions" he declares this, proves it and maintains it. For — not to carry the process out to infinity — every truth must be carried back from truths to one Truth, the true source and end of all truths. This is God alone, who is not merely *the* Truth, but, as I wrote you at the time, every real and infinite and genuine truth, the source, the seed and origin of all truths, not only preceding all truth, which is what is, but declaring and making manifest all truth, which is the right attitude of the mind, the harmonizing of phenomena with the intellect, — that is, in a certain sense, everything. The concept of the mind which teaches and makes plain that which is, is not God, but may more properly be said to be *from* God. Perhaps you think this is not God; but, when it is carried back to God it is without doubt God in reality, differing in form of expression but not in substance.

So that, if truth is found in the Prophets and in other sacred writings, whether of the heathen or of believers or in your abhorred songs of the poets, it makes no difference. The truth *is* God or *from* God, as you see, and so, when you find it where you least expected you should joyfully embrace it. Do not despise it as the cock despises the jasper buried in his dung-hill, while others more truly regard it as very beautifully placed.

Your remarks about the Orator, referring to my treatise addressed to your excellent colleague and later chief, Jerome, I confess I do not understand. I know and understand that, as compared with the majesty of eloquence and the depth and richness of the holy Fathers who have spoken of it, I said absolutely nothing at all. I know — God is my witness — that I wrote in great part as He, the author of all good, inspired me. He who taught me knows that I wrote nothing but what, as Cicero says, sprang to my lips, nothing affected or borrowed from other essay-

ists, but what I remembered to have heard or what chance brought to my mind. If I said any good thing, give the praise to God and the holy Fathers with whose opinions I agreed. And, though I do not believe there is anything in the whole course of that little book which cannot piously be defended, still I beg you and any others who may read this or any other of my writings, to throw upon me the blame for whatever is badly done and kindly to correct my errors.

You have written at great length, and there are many other matters to which I might easily reply, but I have thought best to let them go, lest I seem to have declared war against you. But there is one point which I would not and cannot omit. You say — to quote your own words — "If good sense is proved not to exist in philosophers, whose rank is the higher, judge for yourself what should be said of poets!" In these words you seem to express the opinion that philosophers are of higher rank than poets, and how you ever came by this idea I do not see, since a knowledge of philosophy is necessary to the perfection of a poet, while poetry does not contribute to the making of a philosopher; and therefore it is proved that the poet is greater than the philosopher. If this were not taught by reason nevertheless it ought to be quite enough for you and the rest to see what an infinite number of philosophers there are and what a scarcity of poets. Why do you think it is that in your own time you see scarcely a single poet, but can count a quantity of philosophers? Believe me, it is a much greater thing than merely saying: "This man is a poet!" to find a man worthy of being rationally called by that name. Do you think any one is worthy of being so called who is not skilled in philosophy as well as in the liberal arts and in all learning, human and divine? And here I may transfer the words of Cicero from the

orator to the poet and say with him: "In my opinion no one can reach the highest rank as a poet unless he has mastered all the highest arts and sciences. For discourse must grow and develop out of knowledge, and if the poet have not gained this knowledge he will have a vacant and almost childish manner of speech."

I quote this the more confidently because, again on the witness of Cicero, the poet is closely related to the orator, a little more hampered by the metre but freer in his choice of words. In many forms of elaboration he is his fellow and almost his equal and in one respect certainly nearly identical, namely, that his freedom is restrained by no limitations to prevent him from following what course he will with equal readiness and variety.

But enough of this! There remain still many things in your letter to which you refer but to which it would be a tedious though not a difficult matter to reply. These I have decided, if you hold your present course, to postpone to a later day. Your final admonitions I have taken in good part and thank you for them as they deserve.

And now, to sum up all I have said, but not in detail: You have been able to see what Poetry is. You have learned not to deny that Holy Scripture, so far as its form is concerned, has the very closest relation to poetic diction and may well be compared with it as to its manner of speech. I have not urged or taught by argument but have most clearly set forth, that close attention should be given to poets, orators and philosophers in accordance with the indications of the most holy doctors, so that we may not stand thunderstruck at some little verse quoted from a poet or at some opinion of a philosopher or an orator when they are only proving a point or adorning their style with their feathers or colors; also that we may learn how to oppose the heathen if we chance to be disput-

ing with them or with any one who relies upon their authority, may answer their reasoning with our own and may adorn the truth with eloquence.

You have seen that the vices and crimes scattered through the verses of the poets are not, as you imagine, worthy of detestation, seeing that they are fictitious and composed in derision of fictitious deities. You have learned that Jerome and Augustine and Boethius, who never hesitated to quote poetry, did not exclude the works of the bards and the teachings of the heathen, but permitted them, provided only that they be not made an object in themselves. And many other things you now see which should cause you to change your opinion. Do not, therefore, henceforth oppose those who would engage in these studies, but teach them all to hasten on to other subjects and not to linger too long over the poets and other secular authors. It is not wrong to know evil, but it is wrong to do evil to one's ruin. Do you think it is wrong to learn the law of the Saracens in order to show its falsity or to dispute with those of an opposite opinion? Is any one such a mad fool as to think that the immoralities related in the poets are true and meant for imitation? Who would forbid us to learn things which furnish our equipment, which aid us in reproving what is false and help us to declare the truth? And since the reading of the poets is prescribed, on the authority of Quintilian, for students of rhetoric, will you shut us off also from the practice of oratory? Listen, I beg you, to the great Father Augustine on this point and from his words come to an agreement with me:

"Since the art of rhetoric can be used to persuade men either to truth or to falsehood, who dare say that truth ought to stand helpless in its defense against falsehood? Shall those who are trying to persuade to the false know how to make the listener friendly and attentive by their

introductory remarks, while their opponents shall not know how? Shall the former present falsehood tersely, clearly and plausibly, while the latter offer the truth in such a way that it is tedious to hear, obscure to understand and disagreeable to believe? Shall the former oppose the truth with fallacious arguments and make false assertions while the latter are powerless either to defend the truth or to refute falsehood? Shall the former stir the minds of their audience to error, terrify them, move them to tears or laughter or to courage by their eloquence, while the latter are languid, cold and dull in the defense of truth? Who is such a fool as to call that wise? Since therefore the art of eloquence holds a neutral position, powerful to persuade to either good or evil, why is it not the part of good men to fight for the truth when evil men are perverting it to the uses of injustice or error in support of a wrong or an idle cause?"

These words of Augustine apply not only to rhetoric but to whatever tends toward force of argument or the adornment or the charm of speech, and such is Poetry, by which what we say is adorned and what we believe is demonstrated. So that, since it may be of use to everyone and is not believed in even by the untrained in such a way as to do harm, it is against reason and most foolish to forbid it. Be, therefore, of better counsel, lest you fall into error yourself and cause others to do so and through your ingratitude give offence to the poets to whom you owe so much. Remember that it is not a sign of holiness to deprive others of what is of daily use and profit to yourself.

Farewell, and pray for me!

FLORENCE, *January 24, 1406* A.D.

The second treatise in which Salutati measured his strength against the monkish assault is, perhaps, the last

work that came from his busy pen. It was addressed to an antagonist of quite a different quality from the poor, doubt-oppressed brother of San Miniato. Giovanni Dominici was a Dominican friar, whom his biographers have instinctively described as the Savonarola of his day. Driven from Venice for his over-zealous activity, he came to the house of Santa Maria Novella in Florence in 1399, and entered at once upon a career as preacher, theological teacher, and pastor of souls singularly like that which, just a century later, made the early labors of the Medicean reformer famous for all time.

Dominici was a man of wide learning, but of "the old school." He believed in the study of the ancient classics, but as food for strong men, not as milk for babes. Even more intensely than San Miniato he felt that the "modern" emphasis upon the ancient literature as the indispensable foundation for all education was misplaced. To his mind the early training of youth should be an essentially Christian discipline. Only later, when the Christian character had become fully established, should the youth be trusted to meet the dangerous charm of the classic authors. The monumental witness to the strength and sincerity of this conviction is the ponderous treatise to which he gave the fantastic title: *Lucula Noctis* ("The Glow-worm"), written, probably, in 1405, and edited for the first time at Paris in 1908 by Fr. Remi Coulon, O. P. The treatise was addressed to Coluccio, with the usual extravagant expressions of admiration for his learning and equally extravagant protestations of the author's own unworthiness. He begs Salutati to look with indulgent eyes upon his poor little glimmer of light: "God, who created the sun, made this worm also." He humbly prays for criticism and correction from the great scholar. He will not put his own name to the work, "not only because he

shudders at his own ignorance, but also lest he should obscure the least spark of its light by the intervention of his own person. Even the vast body of the sun may be eclipsed by some vile little object."

A cursory examination of the "Glow-worm" leads one to have every sympathy with the modern editor, whose loyalty to the memory of his Dominican colleague cannot conceal the tedious barrenness of his task. A glimmer of sense in the darkness of a huge mass of unrelated metaphysical elaborations indeed is this last protest of a defeated cause. The work is divided into forty-seven chapters, the initial letters of which form an acrostic of the passage John I, 5, placed at the head of the Prologue: *Lux in tenebris lucet, et tenebrae eam non comprehenderunt.* In the first twelve chapters the author states with surprising candor and fulness the arguments of his expected opponent. He admits here not merely the value but the necessity of classical studies for a full understanding of Christian truth. In the five succeeding chapters he defines certain of the catchwords of his discussion. In the remaining thirty he elaborates his main argument as to the dangers of classical literature in the hands of unqualified persons.

The reply of Salutati also begins with elaborate compliments upon the wide reading of his opponent and the great variety of his activities. The wonder is that so busy a man could have found time for so extended and so profound a discussion. The "Glow-worm" is "a veritable noon-day splendor, in which is no darkness at all." With the first section of twelve chapters the humanist can have no quarrel. It is only when he comes to the question of the relative positions of sacred and secular subjects in a "modern" scheme of education that he finds himself in hopeless disagreement. To establish his point, he pro-

poses to discuss this question first, and then, in a second part, to consider the relative values of the intellect and the will. So far as we know, this second part was never written. What we have preserved consists of six chapters treating in due order of grammar, logic and rhetoric, that is, the *Trivium* of the literary arts, and then of geometry, arithmetic, music, and astronomy, the *Quadrivium* of "scientific" studies. The fifth chapter deals with poetry as an art, and the sixth with Holy Scripture as poetry.

The present treatise shows the quality of Salutati as a type of the early, conservative humanism fully convinced of the rights of learning for its own sake, of the imperative claim of every attainable truth to take its place in that great Whole which is the Truth. He is, however, still under the ban of the mediæval tradition whereby the highest exponent of this ultimate truth is the organized Christian Church. He precedes his argument, therefore, with a general disclaimer of any personal or individual authority for what he may say. If by any unhappy chance any word apparently hostile to the faith should escape him he revokes and condemns it in advance.

Thus fortified he ambles along through the whole range of secular studies, showing in each case the importance of the special discipline in a well-rounded educational programme, and showing also that occupation therewith can have no evil effect upon the Christian character. The technical parts of his argument give him opportunity for many sly thrusts at the defects of monkish Latin, which must have gone far to turn against his opponents the shafts of a ridicule more effective than any amount of serious debate. It could only give poignancy to this ridicule that many of the choicest examples of faulty grammar were taken from the writings of Dominici himself.

Grammar was, unhappily, invented by the heathen,

and if we are to learn it, we must read heathen books. And, if we do not learn it, how are we to meet the assaults of heresy and infidelity? So it is with Logic. Not to prepare our youth in the principles of dialectics is as if we should place a squad of untrained and unarmed raw recruits in the front of the battle. And so again with Rhetoric, the art of persuasion. Augustine was right when he asked: shall the enemies of truth have all the eloquence on their side, while its friends are cold and languid in its defence?

Then, coming to the subjects of the *Quadrivium*, Salutati plunges into the perennial controversy of science and religion. In every case the arguments are the same. The truths of science are founded in the nature of things and have no reference to that revealed truth which is the substance of the Christian faith. Even if the axioms of arithmetic and geometry were false, God would still be true, and faith "is concerned, not with numbers but with God." It would be too much to expect that any man of the fourteenth century should have worked himself entirely out of that half-world of mediæval bemuddlement in which symbolism and allegory so largely took the place of accurate observation and sound reasoning. Our author lets himself go in fanciful demonstrations of the doctrine of the Trinity from the properties of geometrical figures and of the divine unity from the harmonies of the musical scale. It is at least refreshing to hear his declaration that the prophecies of astrology, as respectable a science in his day as "psychical research" in our own, were "absolute nonsense."

It is in the fifth section, devoted to Poetry, that Salutati displays most fully his real feeling as to the value of pure literature. First defining poetry as distinguished from prose by its form of expression, he goes on to de-

scribe it further as the appeal to the imagination. It is "bilingual," employing language in one sense on the surface, but concealing another and a deeper meaning beneath. Poetry is an "art," that is, the harmonizing of principles all tending to one end. To apply this definition to Holy Scripture may sound to monkish ears like profanation of sacred things. This is because the monks conceive of poetry as concerned only with scandalous fables, whereas these are only fictions covering serious truths. The same applies equally to the sacred writings. They employ all those figurative forms of speech which are the distinctive marks of poetry. Even when they do not use verse, they often have the true poetic character.

The encounter with Cardinal Dominici shows our Coluccio as, perhaps, the best representative of the early Christian Renaissance. His humanism is of the type that has given rise to the distinction especially emphasized by certain modern clerical controversialists between a "true" and a "false" Renaissance. The former still holds itself more or less strictly within the limitations of ecclesiastical authority; the latter cuts loose from all limitation, trusting to the inherent force of sound learning to reveal that truth which alone makes free.

LINUS COLUCIUS SALUTATUS TO HIS VENERABLE FATHER IN CHRIST, BROTHER JOHN DOMINICI OF THE ORDER OF PREACHERS GREETING IN OUR LORD JESUS CHRIST IN WHOM WE WHO BELIEVE ARE ALL CALLED TO ONE GLORY SHARING THEREIN, HOWEVER, ACCORDING AS WE DESERVE BY RIGHTEOUS WORKS THROUGH THE GRACE OF GOD.[1]

I have read your book, reverend Father in Christ, and find it a veritable splendor of noonday in which is no

1. Novati, *Ep. Col. Sal.*, IV, 1, 205–240.

darkness at all, and not, as you in your modesty call it, "A light shining in the darkness." After the Prologue you give us forty-seven chapters, following the letters of the passage you have chosen for your text [*lux in tenebris lucet et tenebrae eam non comprehenderunt*],[1] truly an enormous work, in which you have gathered many excellent selections and have displayed your vast learning to my great admiration.

Who would not marvel that so busy a man, continually occupied with spiritual affairs, preaching to the people the word of God, hearing and warning sinners in the secret of the confessional, speaking with God in prayer, hearing the voice of God as you read, soaring, as it were, above yourself on wings of contemplation, — that a man, I say, thus occupied, having scarcely time for the necessary things of life, should have been able to put forth such a huge volume merely to settle one little question! But, when we are led by the goodness and the grace of God it is sure to happen that we can do more than we supposed, nay, more than we could ask. He, that Spirit which is above us, goes beyond us and does more than we his instruments could accomplish. The limitless Supreme, though He works through us and in us, is surely not confined by any human measure. So that, whenever we see something done by a man which seems to be beyond ordinary human powers we can say, and we ought to confess and preach: "Lo! the finger of God is here!" Thus when we think of the lives of Augustine, Jerome and Gregory, their work and their writings, we are amazed, our hearts fail us, and we say: "The Holy Spirit has done this, not these men."

So it is, venerable John, that I am all of a tremble at the very idea of speaking against you, and I dare not assail one single thing which you have established, not

1. John, I, 5.

only because the finger of God has done it, but also because it seems utterly foolish to cast doubt upon what your learning and sanctity have laid down. When, however, I was reading your most elegant composition I came to the place where you sum up the whole controversy and raise the question whether it is right for Christian believers to make use of profane literature. I had already written to Brother John de Angelis who was persistently and absolutely denying that this was permissible to Christian men, and had said to him that it was necessary to the understanding of many books written by most holy doctors, Augustine, Jerome and many others. I said also that when we are opposing the authority of the Gentiles, whether these be historians or poets, or, more dangerous still, orators or philosophers, we ought to be armed in every possible way. We did not, I said, put forward these studies and these traditions as an end in themselves, but as a means for going on to other things. Now everybody was saying that you maintain the very opposite of this opinion.

But, thanks be to God! who is the supreme and perfect Truth, from which as from a seed every true thing is derived, you say in the early part of your treatise, with admirable reasoning, precisely what I was saying. You set this forth at length and most cogently in your first twelve chapters. In the rest, however, you go on to a conclusion as if you were delivering a final judgment and putting an end to the whole question. You admit that the reading of profane literature is not to be forbidden to those who are instructed and established in the faith, as to which I never had any controversy with Brother John de Angelis. So that, if I chose to accept what you say, there would be nothing left for me to say in reply to what comes afterward. But many have the impression that you would

like absolutely to forbid profane literature to Christians, which I distinctly say ought not to be done, and to this you agree, though only in part.

And indeed, most pious Sir, if you did not so earnestly place nobility of intellect above the will, the very opposite of what I maintained when I was discussing the nobility of law and medicine, perhaps I would avoid the burden of a reply, giving way to your authority and your reverend character. But, since it will be a help to discuss this second point I will speak equally of both, so that you may see whether I did well in placing the nobility of the intellect lower than that of the will, and whether we ought to say that boys should not be initiated into profane literature, but should begin with the study of the sacred writings. Then, after you have seen what my opinion is on both these points, it shall be your part to amend, to correct, to change or to cut out whatever arguments I shall put forth subject to your correction.

I will, then, begin with you, Reverend Father, a discussion, first as to whether it is more satisfactory and more convenient to commence our education with sacred literature or more useful to spend some time on profane studies, and this shall be my first discussion under six headings and shall form my first treatise.[1] In the second place we will consider whether I was right in giving to the will precedence over the intellect, which seems not to be your opinion nor that of great and holy authorities in your Order. When this is done I will prepare a conclusion to the whole discussion, always subject to the Truth, to better judgment and to your correction, confident that, even though you remain of your present opinion, still you will not despise one who thinks otherwise.

1. Only these first six chapters were completed. It is probable that the work was interrupted by failing health.

In this I shall proceed the more freely because I shall not make any statement which in my opinion is an argument either for or against the faith; but if this latter should happen I hereby now revoke and condemn it. God has given his servant grace never to have had a thought contrary to the faith. Even when human reason seemed to contradict it I have never had the slightest hesitation. How could my intellect venture to dissent from Holy Scripture or be in doubt about that which has been settled by the whole body of believers? I know not how it may be with others, but so it has always been with me. Even when I was a child and still more now, when with added years I have by God's grace seen and seriously considered more things, I have been most firmly convinced that no doctrine can be more compelling than our faith and the sacred writings; that whatever is contrary to these is utterly false and whatever departs from them is madness. I have always held it to be the greatest folly and intellectual presumption to deviate in any way from the precepts of Jesus, the teaching of Paul, the counsels given by both of them, the opinions and traditions of Jerome, the treatises of Ambrose, the expositions of Gregory and the discussions of Augustine or to disagree in any particular with men of such learning and holiness.

Let the mob of philosophers run after Aristotle or Plato or the pestilent Averrhoes or any better man if there is one, — never mind about their names! I am satisfied with Jesus Christ alone, who while learning flourished in Greece and Italy and while Italy was crushing everything at her own pleasure by force of arms, "made foolish the wisdom of this world," — foolish, not through the wisdom of the wise nor the power of the strong, but through the foolishness of his preaching and his cross; through fishermen, not philosophers, through men of low estate, not those in worldly power.

And, since my first heading is the more important, being related to many things, as for instance to philosophers, grammarians, logicians, rhetoricians and all the heathen who have handed down anything for us to learn, I will begin with Grammar which we know was in a high state of development before the time of Christ, and which is the gateway to all the liberal arts and to all learning, human and divine.

I

I have no doubt whatever that you will agree with me that those who are to enter upon the study of Christian doctrine must, by a kind of necessity, begin with grammar. For, how can one who is ignorant of letters take in the knowledge of Holy Scripture? And how can one know letters without a knowledge of grammar? Do you not see how ignorance of grammar has misled monks and all who labor under the lack of such training? They do not understand what they read, nor can they properly present it to others for their reading.

A simple faith can, I admit, be perceived by the uneducated, but Holy Scripture and the commentaries and expositions of the learned they cannot understand. These can scarcely be comprehended by men of letters — I mean not those who have simply studied grammar, but even those who have labored over dialectics and rhetoric. Grammar itself is in great part unintelligible without a knowledge of general facts (*rerum*), of how the essential nature of things changes, and how all the sciences work together, — not to mention a knowledge of terminology. All studies in human affairs and in sacred subjects are bound together, and a knowledge of one subject is not possible without a sound and well-rounded education. But, however it may be with the ease or difficulty of learning grammar, how about Christian doctrine itself? The

Christian can with difficulty know just what he ought to believe, and if some one, on the authority of Scripture or of some reasoning however feeble, opposes him he will not know how to answer and will begin to waver in his faith. O, how many and what important questions do we hear every day which cannot be answered by mere crudity and a holy simplicity without the aid of learning! What would become of the whole body of the faithful if all were ignorant of letters or of grammar? Of what avail would be the battle-line of believers against the heathen or against heretics without the learning supplied by grammar, logic and rhetoric?

Can any one deny that letters and grammar were invented by the heathen and that, if those studies are to be forbidden to Christians the art of grammar itself will be closed to them? If this sounds absurd to us, why ought we entirely to reject the study of the heathen? Grammatical problems certainly cannot affect one's belief. The science of grammar does not discuss and examine matters pertaining to the faith and to salvation, and therefore there is no danger in this kind of inquiry; no error hostile to the faith can thus be introduced. If sciences are to be rejected on account of their inventors, — and it is a well known fact that they were all invented by heathen, — why was it that the Christians accepted them from heathen hands? Why did they not all go to pieces? Why are they not condemned by everyone? Why are they taught and studied in your monasteries? Believe me, venerable John, it is neither fair nor reasonable to send into exile, as it were, the many teachings and traditions of the heathen, to exclude them from Christian homes, except in so far as they are opposed to the faith and to the conclusions of holy Fathers.

Nor do I think it fair, because one or another held a bad opinion of our faith, to proscribe the learning which he

has handed down to us. The error of an author is one thing; the falseness or the contagion of the science he has invented is another. So that even if a heathen, a publican, a heretic or a criminal has told the truth or professed a science harmless in itself the truths he has spoken cannot be condemned on account of the fault of the author.

I could wish that all monkish writers had been and were still so proficient in grammar that we should not have to listen to barbarisms in their speech, to errors in construction, to words twisted out of all semblance of correctness and placed incorrectly and contrary to the meaning. We should not have to read in their writings "cured of a violent fever by eating five plum-trees (*prunarum*)" if they had learned that the feminine word *prunus* means "a plum-tree," while the fruit is called *prunum*, whence our Vergil says:

Addam cerea pruna: honos erit huic quoque pomo [1]

Our ears would not be offended by hearing from monkish lips: God gave us the science of Nature *in Geneseos, Iob et Ecclesiasten*, for they would know that *Geneseos* is the genitive of *Genesis*, not the ablative, and that the conjunction *et* cannot connect two different cases. Neither would they have said *partile bonum*, meaning part of a good thing, since all words ending in *bilis* signify an aptitude, not an action, and it must be that this adjective *partilis* is formed by syncopation from *hic* and *haec partibilis* and *hoc partibile*, as *nobile* is formed from *notabile*.

We should not be hearing and seeing every day the word *fiendum*, which, whether it be a noun or a participle, cannot be found anywhere, since it has no original form and no participle of its original; for we have no word *fiens* from which, if it existed, such a form might be derived.

1. Verg. Ecl. ii, 53.

They would not say: *deificam potestatem* since there is no power which makes God and since God has no beginning of his making or of his being.

They would not make a passive form of a deponent verb, like this: *respublica ordinate moderari non potest.* They would not have used the distributive word *quilibet* when only two objects are referred to, since its function is to include more than two, as, for example, this: "Otherwise Moses would have condemned himself and would have condemned Abraham also, each (*quilibet*) of whom was most learned in the Gentile sciences." Never would they have declared: "Let them have the *honos* who have borne the *onus*," taking as neuter the noun *honos* which beyond all doubt is masculine. They would not say, *citharedа*, but rather the Latin *citharedus*. They would not cite the dialogue *ad Hortensem*, but would say *ad Hortensium*, as is correct. They would not make the foolish tmesis: *hi sepe ponantur et numero* instead of *sepenumero*, that is, *multotiens ponantur.* They would say: not *humanum genus*, but *humani generis directiva.* They would not make the name Averrois indeclinable, but would know that the fourth case properly ends in *im*, the third and sixth in *i;* so that they would not write: *Averrois in hoc pre ceteris defendente.* They would know that adjectives ending in *ius* have no comparative, and therefore would not say: *ut proprius loquar* or *gaudium per jubilum sermonem proprius exprimitur*, nor would they use the adverb *propriissime.*

Now, to come to the question of meanings: Who would say: *ulla divinitas extingui potest*, except friars, who make no difference between *ullus* and *nullus* and do not see that *ullus* has the same meaning as *aliquis?* What is there, I pray you, in the mouths of monks which makes them say: *sine fallo* instead of *infallibiliter?* And, leaving such trifles

and touching upon the daily offences against orthography in which monks are specially involved, why should one say *micci* or *niccil?* Why *bratium?* Never, I must say frankly, have I been able to see the reason for such ignorance, unless it were among the French, whose latinity shows the depths of barbarism; for, when they wish to write, according to their idiom, *civalier* and in all similar cases, their custom is to write *chivalier*, as if in Latin *c* with the aspirate sounded, not harsher but less thin and close than if it is written or spoken alone with an *i* or an *e*. These and hundreds of other like cases we may pass over, but it is a shame to see how often and in how many ways the ignorance of your monks is shown in these mere elementary habits, with the result that they cannot speak Latin or understand the sacred writings or the teachings of learned men.

The art of grammar comes first in order and in [ease of] perception. It was, beyond all doubt, invented by heathen, whether we consider its discovery or its development. This we have to assume both from reason and from necessity, and, since we can acquire it from no other source than that from which it was derived, namely from the heathen, and since Christians, even though they have commented upon it, have most certainly taken all they say from the heathen, why do you forbid this and other studies for Christians?

Whence did the primitive Church learn how to express itself if not from the heritage of the heathen? When the call of God came to the nations and was accepted by them, how could they have learned to know the sacred writings and to understand their teachings and their purpose if they had been ignorant of their own learning, that is of Greek and Latin grammar? Why do you cause this subject to be taught and studied in your own congrega-

tions and churches? On this point I think I have said enough, and I do not believe that you, when you have read the above, will deny its truth, in spite of what appears to be your absolute prohibition of profane studies to Christians.

Quintilian says, if I may very briefly quote his own words, that this science is divided into two parts, the art of correct speech and the interpretation of the poets, and hence it has more in reserve than is shown on the surface. And farther on he says: "It is not enough to have read the poets; every kind of writing should be studied carefully, not only for the contents, but also for the words, which often derive their force from the authors who use them. Grammar is incomplete without music, when we have to speak of metre and rhythm. If it be ignorant of astronomy it cannot understand the poets who, not to mention other things, are continually making use of the rising and setting of the constellations in their descriptions of time. Nor can it ignore philosophy on account of the numerous passages in almost all poems drawn from an intimate familiarity with the philosophy of Nature, as, e.g., Empedocles among the Greeks and Varro and Lucretius among the Latins, who delivered their message of wisdom in verse. Furthermore we need no small degree of eloquence if we would speak fully and appropriately of each proposition we have demonstrated."

When Fabius [Quintilian] had said this, he added: "Wherefore those persons are not to be tolerated who criticize this science as trifling and vacant, for unless it has laid solid foundations for the future orator, whatever he builds thereon will fall to the ground. It is a necessity for youth, a joy to the aged, a sweet companion in solitude, the only element in every form of study which has more of utility than of display." Thus M. Fabius Quintilianus,

that most highly cultivated writer, in the first book of his Institutes of Oratory.

To this should be added, in order to show the wide scope of this discipline, the work of Marcianus Mineus Felix Capella, in which, after the first two books describing the marriage of Philology and Mercury, he sets forth with the perfection of brevity the doctrine of the seven liberal arts.

So that, since it is the function of grammar to know these arts and to teach them, and since this branch of learning should precede all others, and since it is a part of the heritage of the Nations, it follows logically and of necessity that, far from being prohibited to Christians, it ought to be placed before all other studies. But of this I have spoken elsewhere; and now, having said enough about grammar we will go on to Logic.

II

Who can deny that Dialectics, being an inquiry after truth, which is the sole object of all liberal arts and of every science, is a necessary study for Christian men? Our faith is the supreme Truth, and we come to it through truths without number. Since then this science is the instrument for discovering and estimating truth, who cannot see that it is a necessity to Christian believers in reaching the goal of Christian truth? Shall not the believer begin by learning first the substance of the faith, and then, after he has made a habit of this, as you would have him do, turn to the studies by which he may comprehend and defend what he has already perceived?

Tell me, my venerable John, when can any one be fortified on every side in purity of faith by human reason unless he reach this truth through the discussion of those endless doubts by which it is wont to be weakened and

through knowing and removing many arguments on one side and the other? It is most true, as Democritus, quoted by Cicero, said, that Nature has hidden the truth in deepest mystery. So that, if Nature has hidden her truths, that is, natural truths — for he knew of no others — in such depths, what shall we think of that infinite power whose nature is such that we do well to call it supernatural? — especially since the truths of Nature are finite, while this power must be acknowledged as infinite. In what depth, what pit, what abyss does supernatural truth lie concealed!

But now, the things we hold by faith alone being of such a nature that natural reason cannot reach them, it is easy for some fiction of human reasoning to shake them from the place they once held. Therefore it is necessary for neophytes to learn, together with the doctrine, the means by which to defend it. Who would allow raw recruits, untrained in military affairs, without teaching in the principles of war, to be placed at the post of danger unarmed and not even knowing with what weapons to defend themselves or to attack the enemy? With what reason could they be used even in a slight skirmish? Let them learn at one and the same time to handle weapons, to fight, to conquer and to meet danger, lest at the first encounter they should be struck with terror and beat a retreat or, if they cannot escape, should be captured.

So much for logic, which acts on the intellect with compelling force by means of reasoning. Now let us pass on to Rhetoric which accompanies logic, but acts upon the will. Both of these aim at the same goal but by different ways. The one enlightens the mind to an intellectual conviction; the other brings it into a willing attitude, or, to put it in another way, the one proves in order to teach; the other persuades in order to guide.

III

I know not how to carry on this discussion more effectively than by using the words of Saint Aurelius Augustine. In the fourth book of his *de doctrina christiana* he solves the problem as follows: "The art of rhetoric may be used to persuade both to truth and to falsehood, and who dare say that the truth (in the person of its defenders) ought to stand unarmed against falsehood so that those who are trying to persuade men to falsehood shall know how to make their audience friendly and interested and receptive from the start, while the champions of truth shall not know how to do this? Shall the former present falsehood tersely, clearly and plausibly while the latter set forth the truth so that it is tedious to hear, difficult to understand and unattractive to believe? Are the former to oppose truth with fallacious arguments and false assertions, while the latter are unable to defend the truth or to refute falsehood? Shall the former stir the minds of their hearers to error, terrify, sadden, rouse and exhort in glowing speech, while the latter are cold, slow and languid in the defense of truth? Who is such a fool as to call this wisdom? Since, then, the art of eloquence standing between the two can persuade powerfully to either good or evil, why is no preparation made by good men to fight for the truth when evil men are using this art in the service of wrong or error to gain their own vain and wicked ends?"

Such are the words of the holy father Augustine. And now, then! Does it really seem to you that this famous doctor is forbidding to Christians and to those entering upon the way of God the study of rhetoric, although it is the heritage of Cicero, the special weapon of the heathen, their sword and spear? He saw in others and felt in himself how easily scholars allow grammar, logic and rhetoric

to make their way into theological truth. He saw how necessary these are to beginners in order to learn and to understand the sacred writings. He remembered what a protection they were to him when he had fallen into the Manichean heresy, how they had saved him from remaining, through ignorance, in the error in which he had been caught. He did not forget that the first glory of his salvation flashed upon him out of the darkness of Cicero, the man whose language, as he himself says, was admired by almost everyone — not so, however, his soul! "That book of his called 'Hortensius' contains an exhortation to philosophy, and yet that book changed my whole attitude of mind and caused my prayers to turn to thee, O Lord, and changed my will and my desire. The whole vain show became suddenly a vile thing to me, I desired immortal wisdom with an incredible longing of the heart, and I began to arise and return to thee."

All this Father Augustine said, and here you can see what fruit our God, Creator and Redeemer, drew from out the filthy rubbish of the heathen. So Augustine could not have taught that Christians should be prohibited from things which he remembered by the grace of God to his own salvation, things which he knew were not merely an instrument but a summary of many truths and which he had found a wall of defence for the truth, a weapon, a tool and a sword of protection and victory when he had to fight for the faith or for the sacred writings. Who amid the audience of scholars would desire the banishment of teaching by which he was profiting every day and making progress more and more toward the truth he was seeking?

Imagine for yourself a person well grounded in the *Trivium*, that is, in the literary studies; then let him enter on the study of Christian doctrine and sacred literature at the same time with another person untrained in those

[preliminary] branches, and which do you think would or ought to become steeped [in sacred learning] the more rapidly, or the more completely, the trained man, or the crude and ignorant one? Finally, since the whole *Trivium* is a way and a means, not an end, and is planned so that through it we become able to learn other things and not that we may rest in it, is it not a preposterous and utterly ridiculous idea after the end has been reached to go back and work around to the goal again? If, as you would have it, after we have learned what pertains to the faith and have become well grounded therein, these [literary] subjects are to be studied, tell me, I pray you, to what end? Is it for their own sakes? But they are not an end in themselves. Is it that we may progress further? But we shall already have passed the boundary and left behind us the final goal of all learning!

I can see no reason for this opinion, my dear John, unless it were that, finding you have not reached your goal, you follow the example of men who have lost their way and have strayed from the true, straight and well-worn path and so you turn back to the point at which you wandered away. But enough of this! We can deal with it better when we come to consider the subject as a whole. There remains the *Quadrivium*, and we will take that up as a topic by itself, so that this treatise may not be so long drawn out as to weary you and all who read it.

IV

What is there in the whole *Quadrivium*, my revered John, — if you limit astrology to what can be proved by arithmetic and geometry or what is accepted as probable with regard to the movements and positions of the stars, — what is there to contradict our faith or the Holy Scriptures? There may perchance be errors in these traditions,

since nothing of human invention is perfect; but I do not think that anything can be found in these branches of learning which contradicts our beliefs. Even though some among those accepted as established truths not to be questioned by human intelligence were shown to be false, still this would have nothing to do with the faith and would not contradict any doctrine that is true.

To begin with geometry: If it were not true that equals subtracted from equals are equal and the remainders also equal, although common sense rejects such a falsehood and our intellect does not accept it, still, even if this proposition were not true, it would have absolutely nothing to do with theological truth or with the defence of the faith.

And in the same way with arithmetic; if the above proposition were false, or if it were not true that if from three or more tens you subtract any two there will remain as many eights and twos as you supposed there were tens and that these in turn remain equal, and even though an artisan were to say this and apply it in his work, this would be no hindrance to the truth and completeness of Holy Scripture, nor would it breed any error in the faith, for faith is not concerned with numbers but with God. Nor would there be in God any falseness of this or any other kind except in so far as this were true which is said to be false.

And, if the musical scale were not in the ratio of nine to eight, that is, between an octave and a ninth, as the musical tradition has it, what would this have to do with our faith and our knowledge of divinity?

And, although the tradition of the astronomers concerning the size and movements of the stars and the distances and measurements of the constellations and the signs of the Zodiac is not positive knowledge but rather an

uncertain conjecture, what harm can this do to the purity of the faith or to theological truth?

I cannot see, my very dear John, what possible danger to the faith there can be in these studies, even though they are the work of the heathen and were invented by the Gentiles. They are certainly profitable, and they cannot be injurious. Supposing you examine into the occult meanings of numbers, you will find this kind of learning not merely useful but necessary to an understanding of theology and Sacred Scripture and the teaching of holy doctors. One who has not mastered these traditions completely and correctly can never attain to a command of theology.

One will find there the Monad which, being derived from no number is father and mother of all numbers, the very likeness of God, who, being from nothing, is the maker of heaven and earth and of all things seen and unseen. He will, I say, find the Monad, which is of such procreative power that no set limit of its increase can be discovered. For there can be no number of such size that some unit or group of units cannot go beyond it. Therefore, since no end can be reached it is not possible to find the beginning of a re-solution and a return to that unit from which the process began. As unity multiplied by unity produces only pure unity, so God the Father, begetting the Son from himself, that is God from God, Light from Light, Very God from Very God, does not increase the number of gods, but remains absolutely but one God.

And now, to pass from unity to numbers: the student will find the Triad, a prime number because it cannot be divided by any other, dedicated to God and harmonizing with him in many ways. He will find this first of all numbers to be beginning, middle and end, which shows

its perfection, and among these three no one is greater than unity. The beginning is a monad, the middle a monad and the end is a monad. There is no superiority of greatness among them, for they are equal. There is no priority of time, for they are indivisible and cannot be measured by length of time or of any other thing.

He will find the numbers of mystical perfection, the divisors of which added together give neither deficiency nor superfluity — as is seen in the number six. For six is divisible by one, two and three, and if you add these together they do not give a diminished number, as is the case with all the other numbers below twelve; neither do they give an increased number as is seen in numbers above eleven, both the next and many others. He will also learn that these perfect numbers correspond to the perfection of all the things of God's creation; for God, as the Prophet testifies, created all things according to rule and number. He who is skilled in this branch of learning will not be ignorant that these numbers are so rare that only one is to be found in each series. The first series of numbers is composed of units, the second of tens, the third of hundreds, the fourth of thousands. Of the units below ten there is one perfect number [six]; of the tens, that is, below one hundred, it is twenty-eight; below one thousand it is four hundred and ninety-six; below ten thousand it is eight thousand, one hundred and twenty-eight. Other numbers are either too large or too small. He will learn the rule for finding in each series those numbers whose divisors complete and equal the total. He will learn that those numbers are like the virtues which include the means whereby each is brought to perfection and

Quod ultra citraque nequit consistere rectum.[1]

1. Hor. Sat. I, 1, 107

He will learn to understand the infinite sacramental meanings of each mystic number, which are a part of theological learning and are necessary to a clear understanding of sacred literature. Without this knowledge he will strive in vain to discover the profound significance of Holy Scripture.

And now, to come to geometry: Its elements are the point, the line and the surface. These are not bodies, but are boundaries by which bodies are limited. There is also the cube, a solid body, perfect in three dimensions. In these the unity of the Trinity is to be traced with marvellous subtlety. The first and smallest surface — to speak mathematically — is bounded by the triangle, a figure having three angles so disposed as to make one triangle and no more. So the inexpressible Trinity, having three persons is one God, one as to identity of substance, but triple in the multiplicity of persons. The Father is one, the Son is another, the Holy Spirit is another, yet in such a way that each is a separate thing without being a different thing. So in the triangle one angle is the right, another is the left and the third, which is the upper one, proceeds from these two. So also the cube is long, broad and high, yet neither length, breadth or height is something separate from the cube, but at one and the same time all these are absolutely the same. If, however, these dimensions be compared separately one with another, length is one thing, breadth is another and thickness is a third, yet these are not a something different. These and many other things pertaining to divinity present themselves to the beginner in theology who has carefully studied geometry, and as he advances to the contemplation of God, this science will be a comfort to him and will make him, not merely more learned, but more confident and better equipped to answer his opponents.

The student will learn music, as David the holy king is said to have done very thoroughly, to sing praises to God and add songs to songs. He will perceive a wonderful thing, namely that there are seven tones of the scale so disposed that the first and the eighth sound in unison with each other. But above all he will marvel when he sees that the power of unity is so great that if the strings of two lutes placed near each other be tuned to the same pitch and one be struck the other will vibrate and string will respond to string in unison by the mere movement of the air. When he perceives this he will marvel at the power of God and will worship the unity of all things on account of its likeness to God.

What can I say of astronomy, which, as we view the heavenly bodies with their varied movements, the vastness of the universe, the glory of the earth and the beauty of the sky, directs the creature to the creator of all things? And in this what can be alleged against the truth or what can be found contrary to Holy Scripture? True, I agree with Father Augustine that prophecies of the future, such as the astrologers put forth, are absolute nonsense, and I do not think that such foolishness should be reckoned among the liberal arts — whatever others may think. As I once wrote:

Non humana quidem, sed vis divina futuros
Eventus rerum prenoscere; nam Deus ipse
Solus ab eterno sua queque in tempora cernit;
Altaque mortales premit ignorantia visus.

No human power avails to tell
What new events the future brings,
For God alone perceives the end
From the beginning fixed, of human things;
And ever presses on our mortal sight
The blinding weight of ignorance's night.

V

It might, perhaps, be more correct, seeing that the art of Poetry presupposes the whole *Trivium* and *Quadrivium*, all philosophy, things human and divine, and in short all knowledge, to treat of it after all these. But since, according to Quintilian, as was shown above, the discourse of poets belongs to grammar and, as both an art and a science, is one division of logic, that is, of the science of expression, and is a discipline by itself specially treated by Aristotle in a separate book, it will not be out of place to discuss it in connection with the liberal arts.

By way of introduction we must observe that the whole system of the Latin language has to do first with endings, as to which two points are to be considered: the meaning and the mode of showing the meaning, whereby the perfect sentence and the fitting phrase are produced, and second with the quantity of syllables and the accent of words whereby pronunciation is varied. The system of endings is a double one: first according to the simple, ordinary meaning and then according to a special variation adopted intellectually by way of comparison. The former method is that of plain, familiar discourse appealing directly to the understanding, the simple grammatical speech employed by everyone. The latter is figurative speech meaning something different from what appears on the surface, stirring the imagination by comparisons, rousing and cultivating the mind by its double signification. This latter form of speech belongs to the poets. The kind of language which is governed by word-accent is called "free" (*soluta*), — not that it is not limited by metre, but this only according to words. This is called "prose." That form of speech which is held together according to syllables is commonly called "bound" (*ligata*)

or metrical. The former is simple, held only by the word-accent, and is the language of orators and of all speakers. The latter is twofold and, if I may say so, "bilingual." It is held in balance by syllables and belongs solely to bards and poets. We have thus briefly run over these matters as being necessary to the understanding of poetry.

It is the aim of poets either to edify or to please — to edify by reproving vice, to please by commending virtue. As Aristotle says: "Every poem and every poetic utterance is either praise or blame"; and this being so, what can there be in the poetic art contrary to the faith or hostile to Holy Scripture? What *can* Christians learn if they may not learn how to reprove vice and commend virtue? I cannot see from what source you and other poetry-haters draw your violent prohibitionism and why this discipline seems so detestable to you.

It is the special function of the poetic art, as Alpharabius says, to cause beauty or ugliness which does not exist to be imagined, so that the hearer believes in it and either desires or loathes it. And though we are sure that it is not so in reality, still our minds are impelled toward hatred or desire of that which is imagined, — so that there is nothing here which needs to be rejected by believers or reasonably forbidden to Christian men. Otherwise Juvencus and Sedulius would have done wrong and acted in an unchristian way when they recited the Gospel story in verse of divine elegance. Arator would have done foolishly in recounting the Acts of the Holy Apostles, illustrating them with allegorical comments in majestic verse. Peter [of] Riga would have deserved blame for rehearsing the whole body of the Old and New Testaments in various metres with many allegorical expositions. Alanus and John (called also Architrenius) would have

committed a grievous sin in publishing their books in verse adorned with poetic fictions. Many others also, whom it would be tedious to enumerate, would have sinned by imitating the poets in imaginative verse, — such as Prudentius and Prosper and Father Ambrose, who published many hymns in various metrical forms.

There can be no doubt that poetry is an art. For, if art is the harmonizing of principles all tending toward one end — as nobody can deny — and if the principles of this art were laid down by Father Aristotle, by Horace and by certain of our own countrymen, as is certain; who shall deny that it is an art? And, though there is the greatest difference between one poet and another, whether through gifts of nature and heaven's bounty, as some think, or through power of observation and persistence and habit acquired by practice, certain it is that there must be here something of the artistic quality by which this one or that excels others who in other respects are his equals.

True, Cicero, in his most elegant oration in defence of A. Licinius Archias, said: "In other subjects study and learning are concerned with rules of practice, but the poet excels by his very nature. He is stirred by the activity of his own mind and is inspired as by the very spirit of God." And yet what he goes on to say is most true: "When to an exceptionally gifted nature there is added a reasonable support of learning, I know of nothing more splendid and distinguished." So that it is certain that nature and every sort of training and practice are improved by the principles of science. So also our Horace says:

Natura fieret laudabile carmen; an arte
Quaesitum est; ego nec studium sine divite vena
Nec rude quid possit video ingenium; alterius sic
Altera poscit opem res et conjurat amice.

But here occurs a question some men start,
If good verse comes from Nature or from art.
For me, I cannot see how native wit
Can e'er dispense with art, or art with it.
Set them to pull together, they 're agreed,
And each supplies what each is found to need.[1]

Poetry is, then, an artistic mode of speech. It is, as I said before, bilingual, showing one thing outwardly, but signifying inwardly another thing, always speaking in figures and generally presenting a subject in verse. Now I cannot see what can be said in the execution of this art that can be opposed to our faith or hostile to Holy Scripture, — especially since it is clear that Holy Scripture itself is nothing else but poetry, however much you, most learned Sir, seem to abhor the word! For what is Holy Scripture, whether in its content or its language, but figure?

However, on this point there is much to be said, and I think it will be better to take it up in the course of the following chapter.

VI

I am well aware that the name of poetry is so hateful to monkish ears that it seems a profane sacrilege worthy of the most severe reproof for me to go beyond the general comprehension and compare it with the majesty of the Old and New Testaments. To them I seem to be staining the purity and seriousness of sacred eloquence with the foulness and vulgar extravagance of poetry. This mistake is due to their ignorance of what poetry really is. And no wonder! Their minds are so intent upon the sacred pursuit of theology and the oracles of divine truth contained in the Old and New Testaments that they have no time for other things.

Hence they imagine that rhetoric consists of nothing

1. Hor. *De arte poetica*, 408–411. Transl. Conington.

but a jumble of dazzling words and smooth flowing phrases ending with a trisyllabic or quadrisyllabic cadence. This, however, is but the very least part of rhetoric. Cicero, Sallust, Livy and others of the highest reputation for eloquence used it but sparingly and in such wise that rhythm and charm seemed to follow them, not to be sought by them of set purpose. Doubtless few persons understand that the true foundations of rhetoric, so far as words are concerned, consist in this: that the words should not be strange or obscure or unusual. As the Dictator Cæsar, founder of the Roman Empire, said: "Orators should avoid an unusual word as the sailor avoids a rock." Let the words be appropriate to what you wish to say and, as Cicero puts it: "as if born with the very ideas themselves." If you have not a supply of special words, select such new ones as will not seem to have been invented by you clumsily or hauled out of the darkness of antiquity. If perchance through lack [of the right word] or for the sake of ornament you resort to figurative words, let them not appear far-fetched but as natural as possible and so clear that the meaning you wish to convey shall occur to the hearer at once, not be hidden from the understanding. — But I don't see how I could have wandered so far by just touching upon rhetoric! So let us go back to where we turned aside, namely to poetry.

They imagine that poetry is nothing but scandalous fables, whereas these are fictions concealing an honorable content. On this account they condemn and abhor poetry. They do not understand that, as was shown above, poetry is a linguistic science and is bilingual, showing one thing outwardly but having an inner meaning that is quite different, always speaking in figures and often presenting a subject in verse. Now let us see if Holy Writ does not do the same.

Is not Holy Scripture God's speech? And what is there in the whole body of the sacred volume of the Old Testament, divided according to the number of the Hebrew letters into twenty-two books, and also in the New, containing in mystic language what is spread over the four Gospels, the canonical Epistles, the Acts of the Apostles and the Apocalypse so far removed from our understanding — what is there here which does not contain beneath the surface a something different from what it presents on the outside? What can appear less allegorical than the beginning of Genesis with the works of six days? And yet, did not Adamantius Origenes, — of whom it was said that when he spoke well no one spoke better, and when he spoke badly no one worse, — bring the whole of it to a mystical interpretation and expound it under the figure of a wonderful allegory, adapting it with praiseworthy fidelity to our views of life and our mental powers?

Examine the Book of Judges, the Books of the Kings and those which follow them — are they not all reducible to an allegorical interpretation? I challenge you to cite a single passage of the Old Testament which the holiest of doctors do not explain in a mystic sense! What could be more poetical and, on the surface, more erotic and lascivious than the Song of Songs? What more mystical and more poetical than the story of Job,whose occult meaning many writers, but especially that holy prelate Gregory, have treated in its manifold senses.

It has been said of the last prophetic book [Revelations] that it contains as many mysteries as it does words, — a book of such profound meaning that it has excited many persons to ecstatic frenzy and almost driven them to madness. And the Old Testament as a whole, — is it not held to be the figurative ideal of the New?

But why should I linger longer discussing so evident a

matter with you, who, beyond any other scholar of our time, are trained in the study and teaching of the meanings of Holy Scripture? Is it that I may hide and obscure what is obvious to every observer and by multiplying proofs make it less evident? Let us make an end of this and pass on from facts and opinions to pure questions of words.

Peculiar to poetry are, according to Aristotle, metaphors, all irregularities of speech, transpositions, figures, tropes and what comes under that head, whatever runs over into figurative language such as is commonly used by orators and poets. So that, whatever in Holy Scripture departs from ordinary and natural usage, whatever is said figuratively of something else, this is all poetry — in short whatever conveys its meaning indirectly and not in the strict sense (*proprie*).

So that, when the Psalmist says of Christ, "I am a worm and no man," [1] he calls Christ a worm because, as the worm is born without sexual generation, so Christ was begotten without human seed. When he said, "and no man" he meant this either on account of Christ's deity, for he was not merely man; or because he was made man in such wise that in his conception there was no sin, which is true of no other man at all, since a child, even of one day, is not sinless. It is as if he said, "and no man" in the sense that "all men are sinners but I am not." There are two "worms," that is, beings not born of cohabitation: first Adam, of whom it is written: "And the Lord God formed Adam of the dust of the ground and breathed into his nostrils the breath of life; and man became a living soul." Nor do we wish to explain here whether under the word "man" is included also Eve. Moses said: "And God created man in his own image; in the image of God created he him; male and female created he them." The

1. Psalm XXII, 6.

word Adam is interpreted *homo terrenus* or *terra rubra;* for it is said that in Hebrew this name Adam has the same meaning that *homo* has with us, by which both male and female are indicated. The other "worm" is our Lord Jesus Christ who was not born of a seminal flow, but, as Holy Church declares, as we firmly believe and as pious Catholics confess, was the only begotten son of God, born of the Father before all the ages, God from God, Light from Light, very God from very God, begotten, not made, of one substance with the Father, who for the sake of us men and for our salvation descended from the heavens and was made flesh by the Holy Spirit from the Virgin Mary and became man, etc.

I quote this, not to explain his origin, which is no less incomprehensible as a human birth than as a divine generation, — as the Prophet well said, "Who shall declare his generation?" It is said also of Christ, "The lion of the tribe of Judah has conquered," for thus he was called after his passion. As Peter Damiani wrote to Demetrius: "The she-lion [*leena*] brings forth a dead cub, which remains dead for three days until the sire comes and breathes upon its face and presently rouses it to life." And he adds: "So also he who on the third day raised up the young of the lion of the tribe of Judah, will raise you up also within the three days of faith, hope and love, alive not to the world, but to himself."

He is also the pelican of the wilderness [Ps. cii, 6], because, being the only one born of a virgin, he tears his breast with his beak when duty calls and nourishes his dead offspring with his blood, as our Redeemer died upon the cross. He is the night-owl upon the house [Ps. cii, 7], a bird of evil omen predicting the future, because, as we read in the story of the passion, declaring the approaching ruin of the city he said to the weeping women: "Weep

not for me, daughters of Jerusalem, but weep for yourselves and for your children, etc." He is the swallow upon the roof [Ps. cii. 8], being the only one who has ascended into heaven, whither as yet no man has ascended with him.

But why am I drawn into all these things? What is there in all Holy Scripture which has not a mystical sense, whether you consider the words, the narratives, the prophecies or the precepts of wisdom? It is all mystical, all reducible to an allegorical interpretation. There is nothing in it which is not "bilingual," presenting one thing on the surface, but carrying another meaning within and capable of exposition according to the various senses of the Holy Spirit.

Read and ponder the holy and learned book of St. Augustine entitled, "Concerning Christian Doctrine." I say "read" not to you, my most accomplished friend John, for you have read the whole of it, as that work of yours shows, but to others who may not have read it I commend it earnestly and affectionately. You, and others who have studied the matter will remember, and those who may think the above mentioned book ought to be thoroughly studied will see, that all Holy Scripture is simply bubbling over with cryptic meanings and abounds everywhere in all kinds of mysteries; and this is the special characteristic of the poets.

We have seen, on the authority of Aristotle, that poetry almost always conceals an esoteric meaning; what difference then is there between poetry and Holy Scripture? Both speak in figures, with novel and unusual expressions, implying something quite different from what they say and making these implications not according to the appropriateness which comes from custom, but according to [some] purpose; not with that fitness which might be

assumed from their derivation, but with that which the mind thinks out. [?][1] So that, as Augustine shows, Musaeus and Orpheus and Linus were not inaptly called the earliest theologizers — nay, theologians, since they celebrated their gods in song. And while poetry, I will not say always but, as I have said above, very often, presents its subject in verse, yet at the same time does not reject prose, sometimes continuous as in the case of Apuleius, sometimes interspersed, as in Marcianus Capella and Alanus, and, if you please, in Torquatus, let us see whether Holy Scripture does the same.

If I were writing only to you instead of to all who hate and shun poetry and the literary heritage of the heathen as they would the leprosy, moved thereto for the most part not by reason but by a certain pious crudity, — nay by just plain ignorance and untrained simpleness, — it would be enough merely to state and frankly confess that Holy Scripture in the original speaks sometimes in continuous verse and again in mingled verse and prose. So let them read, if they do not know it, Jerome's Introduction to the Book of Job, familiar [of course] to you. There that faithful and holy interpreter says of the book:

"From the beginning to the speeches of Job it is written in Hebrew prose; but from Job's words,

> 'Let the day perish wherein I was born,
> And the night which said: there is a man-child conceived,'

to the passage where, toward the end of the book, it is written:

> 'Wherefore I abhor myself and repent in dust and ashes,'

it is in hexameter verse running in dactyls and spondees and, in accordance with the peculiarity of the language,

1. The text is here obviously defective.

often using other feet, not of the same [number of] syllables but of the same quantities. From time to time also the rhythm itself is carried along in pleasant, ringing numbers freed from the rules of metre, but [even] these are more nearly metrical than the ordinary reader can understand. From the above mentioned verse to the end of the book the short remaining section is written in prose. But if it seems incredible to any one that there is metre in Hebrew and that the Psalter, the Lamentations of Jeremiah and almost all the Canticles in the Scriptures are composed after the same fashion as our own Horace or the Greek Pindar and Alcaeus and Sappho, let him read Philo, Josephus, Origen and Eusebius of Caesarea, and he will prove by their witness that I am speaking the truth."

Thus speaks the holy Father Jerome, and from this our thesis is sufficiently proved, namely that the sacred page does not always run along in prose, but occasionally takes on the polish of verse. So that, since Poetry is a linguistic art and has a twofold method of speech, displaying one meaning outwardly and having another within, speaking always in figures and often presenting a subject in verse, it is certainly most evident that the fictions of Poetry and the canon of Holy Scripture are not subject to different principles but to precisely the same, —which is what I undertook to demonstrate.